VOLUME TWO

Appendix to the Journal of the Assembly

LEGISLATURE OF THE STATE OF CALIFORNIA
1959 REGULAR SESSION

REPORTS

January 5, 1959-June 19, 1959

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ASSEMBLY INTERIM COMMITTEE REPORTS
VOLUME 12 NUMBER 4
1957-59

RECOMMENDATIONS FOR OBTAINING ECONOMY AND EFFICIENCY IN CALIFORNIA STATE GOVERNMENT

A REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON GOVERNMENT ORGANIZATION

TO THE CALIFORNIA LEGISLATURE
(House Resolution 251, 1957)

December 31, 1958

Members of the Committee

DON ANDERSON
JACK A. BEAVER
CHARLES J. CONRAD
THOMAS J. MacBRIDE
RICHARD H. McCOLLISTER
DON MULFORD
THOMAS M. REES
WM. BYRON RUMFORD
JOSEPH C. SHELL

SETH J. JOHNSON, *Vice Chairman*
CASPAR W. WEINBERGER, *Chairman*

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ASSEMBLY
OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

December 31, 1958

The Honorable Speaker of the Assembly
The Honorable Members of the Assembly
State Capitol, Sacramento, California

SIRS: In accordance with the provisions of House Resolution No. 251 of the 1957 General Session, the Assembly Interim Committee on Government Organization has reviewed certain aspects of the organization and policies of the executive branch of California's government, as they pertain to efficiency and economy, and particularly as they pertain to the ability of the Legislature to fulfill its major responsibility for reviewing the State's budget and determining the levels of service to be rendered to the taxpayers.

Specifically, this committee in recent months has explored the conditions brought about by the establishment of constitutional and statutory fixed and permanent appropriations and their effect upon the State's budget-making process.

To this end the committee held a public hearing in Sacramento on October 17th and heard testimony from all interested parties who wished to appear before it. Among others appearing were representatives of the State Department of Finance and other state agencies and the Legislative Analyst. In addition, the committee received written suggestions and recommendations from other interested organizations and persons, all of which the committee considered carefully in formulating its report and recommendations. The committee also reviewed reports, recommendations and suggestions made in previous years to other groups, both state and private, covering various aspects of this general subject.

The committee wishes to express its sincere appreciation to those persons within and without California's government who participated in the hearing and gave the committee the benefit of their views, and to the Legislative Analyst's Office for much detailed information and technical assistance in conducting this study and preparing the report.

The committee once again is very pleased to acknowledge the invaluable assistance furnished by Arthur Buck who has served as head of our staff for many years and performed exceptionally outstanding services for the committee.

Respectfully submitted,

DON ANDERSON
JACK A. BEAVER
CHARLES J. CONRAD
THOMAS J. MACBRIDE
RICHARD H. MCCOLLISTER
DON MULFORD
THOMAS M. REES
WM. BYRON RUMFORD
JOSEPH C. SHELL

SETH J. JOHNSON, *Vice Chairman*
CASPAR W. WEINBERGER, *Chairman*

FINDINGS AND CONCLUSIONS

MAGNITUDE OF FIXED EXPENDITURES

The committee finds that under existing statutory and constitutional provisions California's Legislature has only a limited current control over the State Budget.

Approximately 67 percent of California's total state expenditure program is fixed by constitutional and statutory continuing appropriations which are based on permanent formulas. This leaves only one-third of the State's total expenditures to the annual review of the Legislature through the regular budget process.

Chart I contains a detail of fixed and controllable expenditures and a comparison of these by individual items for the Fiscal Years 1950-51 and 1958-59.

It is apparent that these continuing, fixed appropriations have increased during the eight-year period covered by this chart. In 1950-51, continuing appropriations amounted to approximately 65 percent of the total state expenditures, but in 1958-59 they will approximate 67 percent.

The major portion of California's continuing appropriations is made up of: (a) revenues collected by the State but returned to cities and counties; and (b) direct payments or subventions to these local governments. Of the $1,343,000,000 of fixed appropriations in 1958-59, $1,024,000,000, or 76 percent, is made up of these two items. These revenues, for which the State is the collecting agent, and the subventions or direct payments to cities and counties total approximately 51 percent of the whole State Budget.

Education and social welfare are the major items for which state moneys are paid directly to local governmental units. In 1958-59 approximately $589,000,000 will be paid by the State to local units for educational purposes and another $182,500,000 for welfare purposes.

Shared revenues, that is, tax moneys collected by the State for local governments, for 1958-59 will approximate $238,000,000 and will come almost entirely from motor vehicle fuel taxes and licenses and registration fees. The only nonmotor vehicle item of these so-called shared revenues is some $9,400,000 of liquor license fees.

CASE AGAINST FIXED EXPENDITURES

The committee concludes that, within well-defined limitations, there is some practical justification for a few continuing appropriations. Examples of such are providing: (a) the State's share of state employees' and teachers' and other retirement funds; and (b) funds necessary for the payment of bond interest and principal amounts as due.

However, it is apparent to the committee that many expenditures have been written into law as continuing appropriations without consideration for the State's expenditure program as a whole. Nor has

there been sufficient thought for the need to maintain flexibility in the current budget so that the Legislature can meet its monumental responsibility for determining those things currently most necessary for which tax moneys are to be expended.

The bases for some of our continuing appropriations are not clear. For example, why should huge sums be appropriated on a continuing, fixed basis for education and social welfare while those vital activities carried on by correctional and mental institutions have to compete annually with each other and with many other activities for moneys out of the General Fund? Does this mean that the public and the Legislature think less of the service rendered by these agencies and that, if there should be a shortage of revenues, the State's prisons and insane wards would be closed and their inmates set free before there would be a reduction in school or welfare expenditures? Obviously, this cannot be the case, but it demonstrates the illogical pattern present in California's continuing appropriations.

Another undesirable characteristic of these nonreviewable appropriations is that they generate problems which in turn create added burdens upon the State's General Fund taxpayers. For example, smog as a product of automotive exhausts contributes greatly to the need for smog control, yet this cannot be financed from gasoline tax money. Likewise, the increased number of automobiles compounds the need for rapid transit systems and more parking facilities, neither of which can be currently financed out of gasoline taxes In fact, the Legislature cannot even review gasoline tax expenditures for freeway construction because of existing statutory provisions.

The committee concurs with the many students of governmental finance and budget-making, and those public officials in this field who generally agree that a large number of fixed, permanent appropriations is most undesirable because they:

a. Prevent annual review by the Legislature of the executive agency involved and thereby preclude the Legislature from carrying out its historic duty of determining how tax moneys should be spent.
b. Provide luxury financing for some activities while starving others.
c. Make for budget inflexibility, with the result that some funds have surpluses and others have deficits.
d. Destroy the incentive of agencies benefiting from permanent appropriations to justify their programs to the Legislature or to the public.
e. Tend to continue year after year even though the original reasons or need may no longer exist.

Many recommendations for significant budget reductions have been made to the Legislature in past years, and failure to act on them has frequently been excused on the basis that these reductions fall in areas of continuing appropriations over which the Legislature has no direct control. Under such circumstances, a balanced budget becomes impossible to achieve without increasing revenues or dipping into surpluses. It is apparent to the committee that California's Legislature will be prevented from balancing the 1958-59 and 1959-60 State

Budgets unless taxes are increased and remaining surpluses are used, because continuing appropriations preclude the Legislature from reducing the expenditure program to meet anticipated revenues from our existing taxes.

In this connection, however, there is nothing to prevent the Legislature from revising some existing continuing appropriation formulas. Nor is there anything to prevent the submission to the people of a constitutional amendment restoring to the Legislature the power to review the entire State Budget. Only if these things are done can the State's total expenses be substantially reduced.

The position in which the Legislature now finds itself as it tries to balance the budget could be foreseen as inevitable as more and more fixed appropriations were enacted. The committee is, therefore, forced to conclude that one of the real reasons for establishing frozen, permanent appropriations of this type is actually to prevent current review by the Legislature of a particular agency, thereby giving what becomes almost perpetual assurance of that agency's continuance and at an established minimum level.

Finally, the committee concludes that special fund activities, if they are to exist, should receive the same budget scrutiny and be required to operate under the same yardsticks as General Fund activities. Taxpayers or fee payers are entitled to the same quality of service from one office of the State Government as from another. Only if there is full annual legislative scrutiny of the budget can the public be assured of adequate governmental services at prices it can afford to pay.

RECOMMENDATIONS

I. ENACT A CONSTITUTIONAL AMENDMENT

The Legislature should submit to the voters a constitutional amendment which would remove from the Constitution all present restrictions against full annual review of the State's total budget by the Legislature. A proposed amendment which would accomplish this result is included immediately following.

Passage by the Legislature and submission of such an amendment to the voters would not be inconsistent in any way with the proposed creation of a temporary study commission (recommended below), since such an amendment would not necessarily result in changes in any permanent appropriations. It would, however, give the Legislature the opportunity to examine each activity on its own merits and in competition with other activities, without an artificially imposed set of arbitrary priorities. Passage of such a constitutional amendment is essential if any substantial reduction in the cost of State Government is ever to be achieved.

II. ESTABLISH A TEMPORARY STUDY COMMISSION

The committee recommends that there be established by appropriate legislation a temporary commission composed of members of the legislative and executive branches of State Government and a number of citizens otherwise substantially qualified. A proposed statute which would accomplish this result is included immediately following. This commission should be given the twofold mission of: (a) examining in detail the structure and functions of all executive agencies as a basis for recommendations designed to improve the efficiency and economy of State Government; and (b) examining the continuing, permanent appropriations now in existence to see if there should not be a far greater opportunity for the Legislature than it has now to review the State's total annual proposed expenditures.

In connection with (a), the instructions to this commission should include requirements that it make specific recommendations for total reorganization of the executive branch consistent with accepted principles of good government management. This should include elimination of duplication and overlapping activities, the reduction of time-consuming and wasteful practices where they are found to exist, and particularly the assurance that all of our governmental agencies will always be responsible to the people through the people's elected representatives.

Some areas for exploration by this commission are suggested in the material included later in this report under the title of "Study Areas for Improving Efficiency and Economy in California State Government." These materials are not all-inclusive but contain many indications of ways in which state services might be improved and costs reduced, or studies that might develop such information.

In connection with (b), the commission should be required to construct a basic test to determine what, if any, governmental activities should be granted fixed and permanent appropriations, and to make specific recommendations for the elimination of those continuing appropriations now in effect which do not meet the proposed test.

PROPOSED LEGISLATION

Constitutional Amendment

OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, December 12, 1958

HON. CASPAR W. WEINBERGER
Seventh Floor, 14 Montgomery Street
San Francisco 4, California

STATE FUNDS—NO. 4578

DEAR MR. WEINBERGER: We have prepared and enclose a tentative draft of a constitutional amendment relating to state funds that is intended to give the Legislature complete control over all funds and appropriations by repealing those constitutional provisions that make appropriations or divert particular funds to specified purposes. The measure would also limit the availability of specific appropriations to a period of one year except appropriations for capital outlay or for payment of principal and interest on bonded indebtedness.

We believe this amendment if adopted would give the Legislature complete control over state expenditures. We have not attempted to abolish statutory special funds, since these are now subject to legislative control and may in any case be abolished by the Legislature without additional constitutional authorization.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel
By LAWRENCE G. ALLYN
Deputy Legislative Counsel

Tentative Draft of Constitutional Amendment Designed to Give Legislature Complete Control Over State Funds and Appropriations and to Limit the Time During Which Specific Appropriations May Be Expended

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1959 Regular Session commencing on the fifth day of January, 1959, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 38 is added to Article IV, to read:

SEC. 38. No appropriation of any specific sum of money, other than for the acquisition or construction of public works or for payment of interest and redemption charges on bonded debts, shall be available for expenditure for a longer period than one year after the effective date of the act making the appropriation, except that obligations incurred within the period of availability for expenditure of an appropriation may be paid subsequently within such time as may be provided by law.

Second—That Section 25⅝ of Article IV of the Constitution is repealed.

Third—That the first paragraph of Section 25¾ of Article IV of the Constitution is amended to read:

SEC. 25¾. The Legislature may provide for the supervision, regulation and conduct, in such manner as it may determine, of wrestling matches or exhibitions and of boxing and sparring matches or exhibition; provided, that no boxing or sparring match or exhibition shall

be of more than 12 rounds in length, such rounds to be of not more than three minutes for each round, except that championship matches may, if the approval of the State Athletic Commission is first obtained, be 15 rounds in length, such rounds to be of not more than three minutes duration each. ~~All moneys, except such sum as the Legislature shall appropriate annually to defray the expenses of the State Athletic Commission of California and to pay the salaries of officers and employees as provided by law, received by the State from license fees, taxes or other means, on or in relation to boxing, sparring and wrestling matches or exhibitions, shall be and are hereby appropriated for the purpose of maintaining such homes for the care of veterans of any war of the United States as may be existing at the time this amendment becomes effective, or that may be established by the laws of this State. Such moneys shall be appropriated as the Legislature of the State of California may direct.~~

Fourth—That the third and fourth paragraphs of Section 6 of Article IX are repealed.

Fifth—That Article XXVI of the Constitution is repealed.

Statute

LEGISLATIVE COUNSEL'S DIGEST

Commission on California State Government Organization and Economy.

Establishes the Commission on California State Government Organization and Economy, created to assist the Legislature in devising means of promoting efficiency and economy in State Government. Defines the commission's duties, powers, and responsibilities.

An act to add Chapter 6 (commencing at Section 8501) to Division 1 of Title 2 of the Government Code, relating to the establishment of a Commission on California State Government Organization and Economy, defining its powers, duties, and responsibilities, and making an appropriation.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6 (commencing at Section 8501) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 6. THE COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY

Article 1. Creation and Membership

8501. There is in the State Government a Commission on California State Government Organization and Economy, hereafter in this chapter referred to as the "commission." The commission shall be comprised of the following members, each of whom shall serve at the pleasure of the appointing authority:

(a) Five members of the Senate of the State of California, appointed by the Committee on Rules of the Senate.

(b) Five Members of the Assembly of the State of California, appointed by the Speaker of the Assembly.

(c) Five officers of the executive branch of the State Government, appointed by the Governor.

(d) Ten citizens of the State to be appointed as follows:
(1) Three by the Committee on Rules of the Senate.
(2) Three by the Speaker of the Assembly.
(3) Four by the Governor.

8502. The members of the commission shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

8503. For the purposes of this chapter the members of the Legislature serving as members of the commission shall be considered a joint committee of the two houses of the Legislature constituted and acting as an investigating committee, and as such shall have the powers and duties imposed on such committees by the Joint Rules of the Senate and Assembly.

8504. The commission shall select a chairman and vice chairman from among its members.

8505. Thirteen members of the commission shall constitute a quorum.

8506. The Governor shall summon the commission to its first meeting.

8507. All vacancies in the commission membership shall be filled in the same manner in which original appointments were made.

Article 2. Purposes and Duties

8521. It is the purpose of the Legislature in creating the commission, to secure assistance in promoting economy, efficiency, and improved service in the transaction of the public business in the various departments, agencies, and instrumentalities of the executive branch of the State Government, and in making the operation of all state departments, agencies, and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives, by any or all of the following means:

(a) By adopting methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.

(b) By eliminating duplication and overlapping of services, activities, and functions, and time-consuming or wasteful practices.

(c) By consolidating services, activities, and functions of a similar nature.

(d) By abolishing services, activities, and functions not necessary to the efficient conduct of government.

(e) By the elimination of unnecessary state departments and agencies, the creation of necessary new state departments and agencies, the reorganization of existing state departments and agencies, and the transfer of functions and responsibilities among state departments and agencies.

(f) By defining or redefining the duties and responsibilities of state officers

(g) By revising present provisions for continuing or permanent appropriations of state funds of whatever kind for whatever purpose, by eliminating any such existing provisions, and by adopting new provisions.

8522. The commission shall, for the purpose of making reports and recommendations to assist the Legislature in respect to the matters listed in Section 8521, examine in detail the structure, organization, operation, and functions of every department, agency, and instrumentality in the executive branch of the State Government, and all provisions of law and regulations pertaining thereto, and shall examine all present provisions of law pertaining to continuing or permanent appropriations of public funds and the methods used in administering such provisions.

8523. The commission shall devise a basic test to determine what, if any, governmental activities should be granted continuing or permanent appropriations.

8524. The commission may submit to the Legislature and the Governor, at such time, or times, as the commission deems necessary, interim reports of its activities.

The commission shall, on or before the tenth legislative day of the 1961 Regular Session of the Legislature, submit to the Legislature and the Governor a comprehensive report of its activities and the results of its studies. The comprehensive report shall contain the commission's recommendations for carrying out the purposes set out in Section 8521, including recommendations for any amendments to the California Constitution, legislation, and administrative actions deemed necessary to accomplish those ends.

The comprehensive report shall set out the basic test formulated pursuant to Section 8523. The report shall list the various governmental agencies or functions for which continuing or permanent appropriations are presently provided and which do not come within the basic test, and shall contain recommendations respecting the agencies and functions for which such appropriations should be made. The commission's existence shall terminate for all purposes on June 30, 1961.

Article 3. Powers

8541. In carrying out its duties and responsibilities, the commission shall have all of the following powers:

(a) To meet at such times and places as it may deem proper.

(b) As a body or, on the authorization of the commission, as a subcommittee composed of one or more members, to hold hearings at such times and places as it may deem proper.

(c) To issue subpenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(d) To administer oaths.

(e) To employ a secretary and such clerical, legal, and technical assistants as may appear necessary.

(f) To contract with such other agencies, public or private, as it deems necessary, for the rendition and affording of such services, facilities, studies and reports to the commission as will best assist it to carry out its duties and responsibilities.

(g) To co-operate with and to secure the co-operation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and to direct the sheriff of any county or any marshal to serve subpenas, orders, and other process.

(h) To certify to the superior court of any county in which proceedings are held, the facts concerning the disobedience or resistance, by any person, of any lawful order, or the refusal of any person to respond to a subpena, to take the oath or affirmation as a witness, or to be examined, or the misconduct of any person during a hearing; and to receive the assistance of the court in enforcing orders and process, in the manner prescribed by Section 11525 of this code.

(i) To co-operate with every department, agency, or instrumentality in the State Government; and to secure directly from every department, agency, or instrumentality full co-operation, access to its records, and access to any information, suggestions, estimates, data, and statistics it may have available.

(j) To authorize its agents and employees to absent themselves from the State where necessary for the performance of their duties.

(k) To do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted it.

SEC. 2. The sum of _____ dollars ($_____), is hereby appropriated from the General Fund in the State Treasury to the Commission on California State Government Organization and Economy, to be expended by it in carrying out its duties and responsibilities under this act.

STUDY AREAS FOR IMPROVING EFFICIENCY AND ECONOMY IN CALIFORNIA STATE GOVERNMENT

During the past decade many recommendations have been made to the Legislature for improving the efficiency and economy of State Government. Many of these recommendations are contained in reports to the Legislature by its own committees or by staff otherwise employed. For example, a review of the budget analysis prepared each year by the Legislative Analyst will produce many such recommendations, a significant number of which have not yet been put into effect.

In the materials which follow, the committee has developed sufficient data to indicate clearly many areas for detailed consideration which could provide a basis for greatly improved efficiency and economy in state operations. This material contains many examples or suggestions of types of poor organization and inefficient and costly processes and procedures now in effect in California's government.

Obviously other examples could be set forth. Lack of time and sufficient committee funds or facilities for a full-scale study necessarily limit this report. However, the examples which follow offer us the opportunity to make significant savings. There are many other such opportunities.

REVENUE COLLECTING AND PROCESSING

Estimated revenues for the State of California for 1958-59 are summarized as follows in the printed budget.

TABLE 1

STATE REVENUES, 1958-59

	General Fund	*Special funds and reserves*	*Total*
Major taxes and licenses	$1,138,728,500	$607,238,500	$1,745,967,000
Miscellaneous revenues	20,805,083	34,581,435	55,386,518
Departmental revenues	23,954,403	34,796,493	58,750,896
Total	$1,183,487,986	$676,616,428	$1,860,104,414

The revenue from major taxes and licenses amounts to 93.9 percent of total revenues. The principal items included in "miscellaneous revenues" are interest on investment of idle state money, $17,773,418, and revenue from oil and mineral royalties and bonuses of $32,821,800. "Departmental revenues" consists largely of such items as license fees received by the various regulatory agencies.

Not included in these totals are substantial receipts of various kinds from other sources. The latest available information on such items is the report of the State Controller for 1956-57 which indicates the amounts of some of the more important of these receipts for that year as follows:

Operating income, Compensation Insurance Fund	$46,667,709
Income from operation of San Francisco Harbor	6,324,224
Income from operation of toll bridges	14,244,347
Employer contributions from local jurisdictions participating in state-operated retirement systems	42,685,534
Interest earned on investments of retirement funds	30,642,432
Receipts from Federal Government for social welfare, unemployment administration, etc	211,941,924
Tax collections by Department of Employment:	
Employee contributions for disability insurance	54,825,952
Employer contributions for unemployment insurance	159,293,625
Total	$566,625,747

While they are not so classified for budgetary purposes all of the foregoing are revenues in a broad sense, inasmuch as they constitute money received by the State.

An analysis of major taxes and licenses, by agencies responsible for their administration, is shown in Table 2.

TABLE 2

MAJOR STATE TAXES AND LICENSES, 1958-59

Administering agency	*General Fund*	*Special funds and reserves*	*Total Amount*	*Percent*
Board of Equalization (See Table 3)	$747,145,000	$327,870,000	$1,075,015,000	61.57
Franchise Tax Board (Bank and Corporation and Personal Income Tax)	339,350,000		339,350,000	19.44
Controller (Inheritance and Gift Tax)	42,400,000		42,400,000	2.43
Subtotal	$1,128,895,000	$327,870,000	$1,456,765,000	83.44
Department Motor Vehicles (vehicle registration and license fees)	2,210,500	247,189,500	249,400,000	14.28
Horse Racing Board (parimutuel fees)	6,323,000	22,779,000	29,102,000	1.67
Department of Alcoholic Beverage Control (liquor license fees)	1,300,000	9,400,000	10,700,000	.61
Total	$1,138,728,500	$607,238,500	$1,745,967,000	100.00

The Board of Equalization, the Franchise Tax Board and the Controller together administer 99.1 percent of the General Fund revenue from major taxes and licenses, 54.0 percent of the special fund revenue and 83.4 percent of the total, while the Board of Equalization alone administers 65.6 percent of the General Fund revenues from the same source, 54.0 percent of the special fund revenue and 61.6 percent of the total.

Table 3 gives details as to the revenues administered by the Board of Equalization.

TABLE 3

REVENUES ADMINISTERED BY BOARD OF EQUALIZATION, 1958-59

Tax	*General fund*	*Special funds and reserves*	*Total Amount*	*Percent*
Alcoholic beverage excise	$41,090,000	----	$41,090,000	2.35
Retail sales and use	654,300,000	----	654,300,000	37.47
Motor vehicle fuel [a]	----	$299,000,000	299,000,000	17.13
Motor vehicle use	----	18,000,000	18,000,000	1.03
Motor vehicle transportation [a]	----	10,870,000	10,870,000	.62
Insurance gross premium [b]	50,030,000	----	50,030,000	2.87
Private car	1,725,000	----	1,725,000	.10
Total	$747,145,000	$327,870,000	$1,075,015,000	61.57

[a] Controller shares administration with State Board of Equalization
[b] Controller and Department of Insurance share administration with State Board of Equalization

The material which follows discusses the revenue collecting and processing functions of the Board of Equalization, Franchise Tax Board

and Controller as they relate to major taxes and licenses since it is in these areas that certain obvious economies could result.

State Board of Equalization

The Constitution of 1879 provided for a Board of Equalization consisting of four members, elected by districts, plus the Controller as ex officio, and it is so constituted at the present time. The duties of this agency are to:

1. Equalize county property tax valuations (Constitution, Art. XIII, Sec. 9);
2. Assess utility property for local property taxation (Constitution, Art. XIII, Sec. 14);
3. Assess the gross premiums insurance tax (Constitution, Art. XIII, Sec. 14 4/5(h)). The Controller and the Department of Insurance also share in the administration of this tax.
4. Administer the retail sales and use tax (Revenue and Taxation Code, Part 1);
5. Administer in conjunction with the Controller the motor vehicle fuel tax (Revenue and Taxation Code, Part 2);
6. Administer the use fuel (diesel) tax (Revenue and Taxation Code, Part 3);
7. Administer in conjunction with the Controller the motor vehicle transportation license tax (Revenue and Taxation Code, Part 4);
8. Administer the private car tax (Revenue and Taxation Code, Part 6);
9. Administer the alcoholic beverages taxes (Constitution, Art XX, Sec. 22);
10. Act as an appeals board for the personal income and bank and corporation franchise taxes which are administered by the Franchise Tax Board (Revenue and Taxation Code, Parts 10 and 11).

The board has an authorized staff of 2,500 permanent full-time positions for 1958-59 assigned as follows, by operating divisions:

TABLE 4

STATE BOARD OF EQUALIZATION PERSONNEL BY OPERATING DIVISION, 1958-59

Division	*Number*
General Administration	82.5
Service	154
Research and Statistics	65
Valuation of public utility properties	56
Assessment standards—assistance program	26
Assessment standards—county contract mapping	77
Sales tax	1,792.5
Highway tax	206
Beverage tax	41
Total	2,500

The programs administered by the valuation and assessment standards divisions are handled largely on a statewide basis. For purposes of administration of the three tax programs, the board has 12 district offices in California with a number of branches, there being about 60 locations, and two offices outside the State, one in Chicago and one in

New York. The distribution of the staff, by districts, was as follows at July 1, 1958:

Location	*Total*
Headquarters—Sacramento	941
New York	20
Chicago	19
District 1—Los Angeles	622
District 2—San Francisco	180
District 3—Oakland	115
District 4—Fresno	99
District 5—San Bernardino	100
District 6—San Diego	71
District 7—San Jose	79
District 8—Sacramento	100
District 9—Santa Rosa	56
District 11—Santa Barbara	32
District 12—Marysville	46
District 13—Redding	22
Total	2,500

Estimated expenditures for 1958-59, including retirement, are as follows:

General Fund	$12,496,878
Motor Vehicle Transportation Tax Fund	1,067,251
Itinerant Merchants Fund	19,353
Motor Vehicle Fuel Fund	982,432
Total	$14,565,914

Franchise Tax Board

In 1929 the office of Franchise Tax Commissioner was created to administer the bank and corporation franchise tax. As a result of a legislative investigation in 1948 which revealed gross inefficiency and maladministration in the San Francisco office of the commissioner, the Legislature, by Chapter 1188, Statutes of 1949, (now Government Code Sections 15700-15702), abolished the position of Franchise Tax Commissioner and created in its place the Franchise Tax Board which functions through an executive officer appointed by the board with the consent of two-thirds of the Senate, and exempt from civil service, and removable by the board only with consent of two-thirds of the Senate. The Franchise Tax Board consists of the Controller, the Director of Finance and the Chairman of the Board of Equalization.

The Franchise Tax Board administers the following taxes:

1. The personal income tax (Revenue and Taxation Code, Part 10).
2. The bank and corporation tax (Revenue and Taxation Code, Part 11).

The latter consists of the bank and corporation franchise tax and the corporation income tax.

The Franchise Tax Board has estimated expenditures of $6,558,190 for 1958-59, inclusive of retirement, and has an authorized staff of 1,125 for that year, including 177 man-years of temporary help. The actual

staff at November 17, 1958, consisted of 1,147 positions, distributed geographically as shown in Table 5, including temporary help. The staff fluctuates considerably during any given year because of the seasonal character of the temporary help, most of which is used in headquarters.

TABLE 5

FRANCHISE TAX BOARD PERSONNEL AT NOVEMBER 17, 1958, BY LOCATION

Location		*Staff*
Sacramento Headquarters		834
New York Office		10
Chicago Office		10
Los Angeles Region		
Los Angeles	140	
Long Beach	9	
San Diego	7	
Santa Barbara	2	
San Bernardino	3	
Bakersfield	3	
		164
San Francisco Region		
San Francisco	103	
Oakland	8	
Fresno	3	
San Jose	8	
Santa Rosa	3	
Stockton	4	
		129
Total		1,147

Controller

The State Controller is an elected official whose primary responsibilities are to act as the disbursing officer of the State and to maintain certain overall central accounting records of the transactions in the various state funds. He is also a member of the Board of Equalization and the Franchise Tax Board and a number of other state boards and commissions and has the following responsibilities in the field of tax administration which are unrelated to his chief responsibilities in the field of fiscal control; and are all statutory rather than constitutional:

1. Supervises the administration of the state inheritance and gift taxes;
2. Collects the motor vehicle fuel license tax, and motor vehicle transportation license tax;
3. Collects the insurance gross premiums tax; and
4. Administers the tax refund to nonhighway users of motor vehicle fuel.

The Controller has total authorized expenditures for 1958-59 from various funds of $3,994,655, exclusive of retirement, and an authorized staff of 566.4, distributed by division and location as follows:

TABLE 6

CONTROLLER PERSONNEL

Division	*Sacramento Headquarters*	*San Francisco*	*Los Angeles*	*Total*
1. Administration	29.3			29.3
2. Accounting	51			51
3. Audits	95.8			95.8
4. Disbursement	96	25.5	32	153.5
5. County Budgets and Reports	29.3			29.3
6. Tax-deeded Lands	30.2			30.2
7. Inheritance and Gift Tax	29	19	39.3	87.3
8. Tax Collection and Refund	90			90
Total	450.6	44.5	71.3	566.4

SOURCE: Governor's 1958-59 Budget

The last two divisions are those directly concerned with the tax activities of the Controller's Office, and had authorized expenditures for 1958-59 as follows:

	General Fund	*Special Funds*	*Total*
Inheritance and Gift Tax Division	$650,923		$650,923
Tax Collections and Refund Division	23,977	$467,421	491,398
Totals	$674,900	$467,421	$1,142,321

Department of Insurance

The Department of Insurance is primarily a regulatory agency with authorized expenditures of $1,722,809 for 1958-59, exclusive of retirement, and an authorized staff of 219.5.

It is headed by a commissioner, appointed by the Governor, with the consent of the Senate for a term of four years, at a salary of $17,000 per year, and maintains four offices in the State; Los Angeles, San Francisco, San Diego and Sacramento. The headquarters of the agency is in San Francisco.

Included in the total positions are 44 audit and 14 legal. The major function of the audit positions is to examine insurance companies, by field visitations and review of statements filed with the commissioner, to determine their financial condition and solvency and compliance with the law. In the course of this work they also verify their tax liability under the gross premiums tax, both as to current and past periods.

Under the law, all insurance companies are required to file statements with the commissioner on April 1st, or May 1st, of each year, setting forth their transactions for the preceding calendar year which are subject to the tax. The commissioner reviews these statements, calculates the tax and transmits the information to the Board of Equalization on the following July 1st.

The Board of Equalization assesses the tax on August 10th and on the following October 20th transmits the information to the State Controller who bills the insurance companies for the tax, payment of

which becomes delinquent on the following November 15th. Payments are made to the State Controller and between December 10th and 15th he is required to notify the Insurance Commissioner of all unpaid amounts. The Insurance Commissioner, after due notice, then takes action to revoke the certificates of authority of those companies which have not paid their taxes, and it is a misdemeanor for any insurer to continue in business after his certificate has been revoked

Thus it appears that the Insurance Commissioner performs the most significant functions in connection with the administration of the insurance tax: (1) he calculates the tax due in the first instance; (2) he verifies the accuracy of the tax base by audit, including field audit of the insurer's records; and (3) he takes punitive action against delinquent taxpayers.

The functions performed by the State Controller are purely clerical.

The constitutional function performed by the Board of Equalization of assessing the tax on August 10th of each year is essentially clerical since it consists merely in preparing a tax roll and notifying each insurer of the amount, based on the information previously furnished by the Insurance Commissioner. However, the board also performs an appeals function since the insurer has until September 10th to apply to the board for a correction if dissatisfied with the assessment and the board may change the assessment any time prior to October 15th, either on its own initiative or at the insurer's request, if warranted.

The tax is estimated to yield $50,030,000 for 1958-59, and is computed at 2 35 percent of gross premiums.

Possibilities for Improved and Less Costly Administration

There appear to be several areas in the field of revenue collecting and processing in California which could be revised so that this function could operate in the best interests of efficiency and economy:

(1) A finding was made by this committee in 1955 that excessive costs to the State and needless inconvenience to taxpayers existed because the administration of major taxes and licenses is distributed among four different agencies. This causes needless duplication of facilities, inefficiencies and cumbersome procedures.

The best solution to this problem would appear to be the creation of a Department of Revenue [1] responsible to the Governor and the Legislature, and to which would be assigned full responsibility for all phases of the administration of all the taxes in question. An independent appeals board to handle appeals from actions of the department should also be created.

(2) Administration of the inheritance tax, which is unnecessarily costly because of the antiquated and cumbersome provisions of the existing law.

(3) Administration of the insurance tax which is unnecessarily complicated and costly **and results in loss of revenue to the State of approximately $800,000 per year because of antiquated and cumbersome provisions in the existing law.**

[1] See Report of this Committee, "The Need for a Department of Revenue in California," to the 1955 General Session of the Legislature, in which it was estimated that the State would save $2,727,000 annually by the creation of such a department

(4) Short of the over-all organization suggested above (which could be completely carried out by the passage of a constitutional amendment and statutory changes) some improvement in existing administration and some reduction in present costs could be achieved by the following:

a. Concentrate responsibility for administration of all phases of a given tax in a single existing agency by.
   1. Transferring collection of the gasoline tax from the Controller to the Board of Equalization
   2. Transferring gasoline tax refunds from the Controller to the Board of Equalization
   3. Transferring collection of the transportation tax from the Controller to the Board of Equalization
   4. Transferring collection of the insurance tax from the Controller to the Insurance Commissioner
   5. Transferring the assessing of the insurance tax from the Board of Equalization by making it a self-assessed tax to be administered entirely by the Insurance Commissioner, the only function to remain with the Board of Equalization to be the hearing of appeals from actions of the Insurance Commissioner on deficiency assessments and refund claims

b. Redistricting the Board of Equalization

c. Abolishing the Franchise Tax Board and the executive officer chosen by it and substituting therefor an administrator appointed by the Governor.

INHERITANCE AND GIFT TAX ADMINISTRATION

The inheritance tax is a state tax and the State Controller is responsible for its administration under the statutes (Division 2, Part 8, Chapter 13 of the Revenue and Taxation Code), although there are no constitutional provisions charging him with this responsibility. The gift tax is a companion tax and its administration is completely integrated with that of the inheritance tax.

The tax is administered at the state level by the Inheritance and Gift Tax Division in the State Controller's Office. Also involved in its administration are the inheritance tax appraisers (of which there are 123 at present), the county treasurers, and the probate courts.

Any changes in the procedure for inheritance tax administration would require amendment to numerous sections of the Revenue and Taxation Code, the Probate Code, and perhaps other laws but would not require amendment to the constitution.

The general pattern for administration of the inheritance tax in California has undergone no significant change for a number of years.

The inheritance tax appraiser under California law is an officer of the court. His principal function is to determine the amount of inheritance tax due in a given case by appraising the assets of an estate.

The Inheritance and Gift Tax Division in the State Controller's Office reviews all reports of the inheritance tax appraisers which show a tax liability before they are filed with the courts, and also reviews about half the "no-tax" reports and performs various other functions involved in the administration of the tax.

When finally determined, the tax is paid to the county treasurers in the first instance who, after deducting their commission and certain other expenses, remit the remainder to the State.

The authorized staff of the Inheritance and Gift Tax Division in the State Controller's Office for 1958-59 consists of 86 people distributed by class and location as follows:

	Sacramento	*Los Angeles*	*San Francisco*	*Total*
Attorneys	6	9	6	21
Auditors	5	7	4	16
Clerical	18	22	9	49
Totals	29	38	19	86

This staff is all under civil service. The Los Angeles and San Francisco offices are each headed by a senior inheritance tax attorney, while the division chief in Sacramento is a principal inheritance tax attorney.

The inheritance tax appraisers who are appointed by the State Controller and hold office at his pleasure are located in the various counties throughout the State, the Controller being required by law to appoint at least one in each county, although a county may have many more (Los Angeles has nineteen).

The general pattern for administration of major state taxes such as income taxes, both personal and corporate, sales taxes, gasoline taxes, unemployment insurance taxes, liquor taxes, et cetera, is for the taxpayer to make a self-assessment by the filing of a tax return setting forth the amount due and paying the tax direct to the State. The State then takes whatever steps it deems appropriate to satisfy itself as to the correctness of the self-assessment but the responsibility is on the taxpayer to make the assessment in the first instance. This is also the pattern for inheritance tax administration in many other states.

In California, on the other hand, in the case of the inheritance tax the process is reversed, and the State, acting through the inheritance tax appraisers and the courts, makes the assessment in the first instance and the tax is paid, not directly to the State but to the county treasurers.

The inheritance tax appraiser occupies a peculiar position in that he is both a state official and an officer of the court since the Probate Code requires that the Controller-appointed inheritance tax appraisers *must* be used by the courts for appraisal of probate estates. He is compensated on a fee basis, receiving part from the State for his services in appraising for inheritance tax purposes and part from the proceeds of the estate for his services in appraising for probate purposes. In practice, a single appraisal serves both purposes. Since he is an officer of the court his position is exempt from civil service under Article XXIV of the Constitution.

It is estimated that the inheritance tax will yield $39,700,000 in revenue to the State during 1958-59 and that its companion tax, the gift tax, will yield an additional $2,700,000, both of which are revenues to the General Fund of the State.

The Inheritance and Gift Tax Division in the State Controller's Office has authorized expenditures of $650,923 for 1958-59, exclusive of retirement, all of which is from the General Fund. In addition, county treasurers will receive between $400,000 and $500,000 (actual payments

during 1957-58, $460,000) and inheritance tax appraisers about $250,000 (actual, 1957-58, $260,000) out of inheritance tax collections in county treasuries, so that the total state administrative costs will amount to about $1,250,000, all of which can be regarded as a General Fund expenditure, either directly or indirectly

In addition to their compensation of $250,000 from the State, it is estimated that the inheritance tax appraisers will receive at least $1,000,000 in fees from the estates involved as compensation for their services as probate appraisers.

At least $100,000 per year is lost to the State in possible interest earnings due to retention of inheritance tax collections in county treasuries for periods of one to three months, which loss could be eliminated if the tax were paid directly to the State.

Since the compensation which the inheritance tax appraiser receives is based on a fixed schedule of fees determined by the size of the estate, there is no direct relationship between the compensation received and the amount of work performed. Compensation received by inheritance tax appraisers is estimated to average approximately $10,000 per year.

Where the assets of an estate consist of such items as a residence, an automobile, bank accounts and listed securities, the appraisal process is relatively simple since it involves only such operations as examining tax bills, automobile blue books, bank statements and stock exchange quotations as published in newspapers. It is probably safe to assume that the vast majority of the estates appraised contain only such assets as these.

Study Areas

1. The State Controller estimates that his appraisers in the larger counties earn about $18,000 per year from appraisals, and in some instances as high as $40,000 per year. Most of this compensation represents fees for probate appraisals since the amount which any appraiser can receive for inheritance tax appraisals is limited by rule to a maximum of $3,200 per year.

This suggests that appointments as inheritance tax appraisers are highly desirable political plums and might well be provided under civil service on a salary basis paid by fees charged estates.

2. State administrative costs (about $1,350,000 when commissions paid county treasurers and loss of interest are included) appear to be excessive.

3. Commissions paid the inheritance tax appraisers for making probate appraisals, which, while they do not involve state costs, appear to be an unwarranted charge against the estate in many instances. Under existing law probate appraisals are required in all instances where estates are subject to probate proceedings or proceedings for termination of joint tenancy, and the court must appoint an inheritance tax appraiser to make the appraisal. There are indications that except in rare instances, perhaps in one case out of 100, appraisals serve no useful purpose in cases where no inheritance tax is due. This is true in about two-thirds of the instances in California, including many large estates, because of the community property features of California law. It follows that appraisal fees paid in such cases are not warranted. While

the question of whether appraisals are necessary in probate or similar proceedings where no inheritance tax is due is primarily one of court procedure rather than inheritance tax administration, it is mentioned at this point, since inheritance tax appraisers under existing law must be used for this work and the resulting fees constitute the major portion of their income. It is recognized that if appraisals for inheritance tax purposes were to be made by salaried state employees rather than by the present type of inheritance tax appraisers, appropriate provision could be made for such appraisals for other purposes as the courts deemed necessary, although there appears to be no valid reason why an appraisal by a civil servant for the inheritance tax should not also be used, without extra cost to the heirs for probate purposes.

ACCOUNTING AND AUDITING IN CALIFORNIA STATE GOVERNMENT

Accounting and auditing are activities performed at a number of places in California State Government:

Departmental accounting;
Departmental auditing (in some cases);
Controller's accounting;
Controller's auditing ("preaudit" of a limited type);
Department of Finance auditing;
Auditor General's auditing.

Each department keeps its own accounts on the basis of rules prescribed by the Department of Finance. Certain departments have regular internal auditing review of procedures and transactions. By and large, however, the function of auditing review has been carried out by the Audits Division, Department of Finance.

With the creation of the Office of the Auditor General, directly responsible to the Legislature, certain of the broader aspects of auditing have been removed from Finance's Audits Division. This has reportedly enabled the latter to take a closer look at the management aspects of the various departments.

State Controller's Office

The Controller's principal accounting duties consist of maintaining appropriation and fund control accounts. He also has a number of miscellaneous accounts, one of the principal groups being that of receivables from school districts for construction loans.

One activity performed by the Controller about which there has been considerable question is that of "preaudit." This consists basically of two operations: a recheck of arithmetic, and a check to see that all required supporting documents accompany any request for expenditure of state funds.

Other auditing functions performed by the Controller include audits of subventions and loans, records of public administrators, municipal and justice court accounting records, and inheritance and gift tax returns.

The general legal basis for the Controller's auditing and accounting functions is contained in the following sections of the Government Code:

Claims against the State—Section 16003;
Revolving Fund disbursements—Sections 16402, 16403;
Refund of amounts disbursed from payroll revolving fund—Section 16392;
Superintendence of fiscal affairs, audit of claims and disbursements —Section 12410;
Duties generally—Title 2, Division 3, Part 2, Chapter 5, Article II (Sections 12410 to 12425);
Maintain and co-ordinate the Central Control Accounts—Sections 12471, 13290, 16301;
Accountability of Purchasing Revolving Fund—Section 11260.

The Controller's Accounting Division had authorized positions for the Fiscal Year 1957-58 as follows:

General administration	4
Financial analysis	9
Control accounts	34
Unclaimed property	4
Total	51

The 1957-58 Fiscal Year authorized positions for the Controller's Audits Division were:

General administration	5
Claim auditing	44.6
Field audit unit	43.7
Total	93.3

The Accounting Division's expenditure for Fiscal Year 1957-58 was $343,870 which was derived from the General Fund ($313,183), Postwar Unemployment and Construction Fund ($1,165) and the State School Building Aid Fund ($29,522).

The Audits Division's expenditure for Fiscal Year 1957-58 was $608,459 which was derived from the General Fund ($514,494), the Postwar Unemployment and Construction Fund ($5,871) and the State School Building Aid Fund ($88,094).

Department of Finance

The Department of Finance has an Audits Division which conducts full audits of all agencies of the State Government. A complete audit is required every two years. Through this division the Governor is presumably assured of a basic control over all departments. The audit consists of review and analysis of receipts, revenues, expenditures, and the utilization of assets, to assure that they have been applied to the purposes designated by law; that the accounts have been kept accurately and with due provision for controls; and that full and comprehensive reports have been made.

Equally important is the establishment of rules for accounting procedures for state agencies. In this the Organization and Cost Control Division of the Department of Finance plays a major part through issuance of the *State Administrative Manual,* Book II, Fiscal Affairs.

The general legal basis for the Department of Finance's auditing functions is contained in the following sections of the Government Code:

Auditing powers and establishment of accounting systems for state agencies—Title 2, Division 3, Part 3, Chapter 3, Article I (Sections 13290-13299);

Money held by State Treasurer in trust for state agencies—Section 16305.3;

Institution of investigations and proceedings—Section 13070;

Audit of records and books of nonprofit corporation contracting with educational institution—Section 13077.

The following were the authorized positions of the Audits Division, Department of Finance, for the 1957-58 Fiscal Year:

Auditing	92.7
Accounting services	3.6
Total	96.3

The division's expenditure for 1957-58 was $785,215 which was derived from the General Fund ($661,317), the Fair and Exposition Fund ($67,750) and reimbursements ($26,148).

The Organization and Cost Control Division's authorized positions for the Fiscal Year 1957-58 were as follows:

Administration	4.3
Accounting systems	11.4
Management research	18.4
Suggestions systems	4.0
Temporary help	2.3
Total	40.4

This division's expenditure for 1957-58 was $327,338, of which the General Fund bore $297,150 and reimbursements accounted for the remainder.

In view of the fact that the activities of this division go far beyond designating accounting procedures, only a small portion of this total can be attributed to accounting and auditing.

Auditor General's Office

The 1955 Legislature created the position of Auditor General and made it responsible to the Legislature. The Auditor General's role parallels that of the independent auditing firm which examines the books of a private corporation and forms an independent opinion of the fiscal controls exercised by management. The Auditor General is head of the Legislative Audit Bureau, and is appointed by, and immediately responsible to, the Joint Legislative Audit Committee.

The general legal basis for the office is in Title 2, Division 2, Part 2, Chapter 4, Articles I and II, of the Government Code.

The cost of the office in 1957-58 approximated $375,000 which was borne equally by the Senate and Assembly Contingent Funds.

Study Areas

In view of the rapid growth of California's population during recent years, and the corresponding growth in size and activities of her departments and agencies, a pressing problem is the need for regrouping of

the state's fiscal functions in order to form administrative units of manageable size based on a rational system of internal checks.

Basic to this is the study of relationships and possible overlappings between; (1) departmental accounting and the Controller's claim-checking Audits Division[1] and (2) departmental internal audits and the Department of Finance's audits.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

The California Alcoholic Beverage Control is administered by the Department of Alcoholic Beverage Control which was created by constitutional amendment, effective January 1, 1955, on which date the new department took over the administration of liquor control from the Board of Equalization.

The department is headed by a director, appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate, and serving at the pleasure of the Governor. The director may be removed from office by the Governor, and he may also be removed by the Legislature by a majority vote of all members elected to each house for dereliction of duty, corruption or incompetency. The present salary of the director is $16,500 per year.

The department issues all licenses, of which there are 30 kinds mentioned in Section 23320 of the Alcoholic Beverage Control Act, collects all license fees and regulates the activities of all licensees. It has the power to suspend or revoke licenses for violations of the law. The director and his staff have all the powers of peace officers in the enforcement of the penal provisions of the Alcoholic Beverage Control Act, any other penal provisions of state law relating to alcoholic beverages, and, while they are on any licensed premise in the course of their employment, they have all the powers of peace officers in the enforcement of any penal provision of any law (Sec. 25755, Alcoholic Beverage Control Act).

The Constitution (Art. XX, Sec. 22) provides that the State of California shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State. At the same time, Section 25619 of the Alcoholic Beverage Control Act provides that every peace officer and every district attorney in this State shall enforce the provisions of the Alcoholic Beverage Control Act and that refusal or neglect to do so shall constitute a misdemeanor.

The Department of Alcoholic Beverage Control has an authorized staff of 462 permanent full-time employees for 1958-59, of which 91 are in the headquarters office in Sacramento and 371 in field offices. For field administration the State has been divided into three areas, the north coastal area, with headquarters in San Francisco, the central valleys area with headquarters in Sacramento and the southern area

[1] See 1958 Report of the Joint Legislative Audit Committee to the Legislature for detailed comments on the activities of this Division and its duplication of departmental accounting processes. A recent example of the elimination of potential duplication between agencies in this field is the arrangement now in effect between the Auditor General and the Department of Finance as to respective areas of activity

with headquarters in Los Angeles. Each area is in charge of an area administrator, appointed by the director and exempt from civil service.

The field staff by class and area is as follows:

STAFF BY CLASS AND AREA

Class	*Salary range*	*Area*			
		North	*Valley*	*South*	*Total*
Area administrator	$1,100-$1,200	1	1	1	3
Assistant area administrator	710- 862	1	1	2	4
Supervising agent II	613- 745	5	5	8	18
Supervising agent I	505- 613	14	9	16	39
Agent ABC	415- 505	84	49	87	220
Associate counsel	745- 905	1	1	1	3
Assistant counsel	556- 676	-	-	1	1
Auditor III	613- 745	-	-	1	1
Auditor II	505- 613	1		-	1
Clerical	Various	25	17	39	81
Total		132	83	156	371

In each of the areas there are several district and, in some cases, branch offices, there being 23 separate locations in all The total field staff by locations is as follows:

STAFF BY LOCATION

North Coastal Area:		
Area headquarters—San Francisco	7	
San Francisco district office	48	
Oakland	30	
Vallejo (branch of Oakland)	5	
Santa Rosa	13	
Eureka (branch of Santa Rosa)	3	
San Jose	17	
Salinas (branch of San Jose)	6	
San Luis Obispo (branch of San Jose)	3	
Total		132
Central Valleys Area:		
Area headquarters—Sacramento	6	
Sacramento district office	17	
Redding	9	
Marysville	11	
Stockton	15	
Fresno	15	
Bakersfield	10	
Total		83
Southern Area:		
Area headquarters—Los Angeles	25	
Los Angeles district office	18	
Pasadena	17	
Inglewood	17	
Van Nuys	13	
Long Beach	22	
Santa Barbara	8	
San Bernardino	17	
San Diego	15	
El Centro (branch of San Diego)	4	
Total		156
Grand total		371

In general, the supervising agents II are in charge of the larger district offices, assisted by one or more supervising agents I, while some of the smaller offices are headed by a supervising agent I. The agents are the journeyman enforcement class; the attorneys are concerned largely with the preparation of cases involving a hearing before a departmental hearing officer; and, the auditors with off-sale distilled spirits license fee audits and other specialized matters.

The two most time-consuming activities of the department have to do with the processing of license applications, including field investigations, and enforcement, chiefly of provisions of the law relating to the operation of retail establishments.

Of the total staff of 462 people, it is estimated that not over the equivalent of 12 full-time positions are devoted to enforcing the fair trade and price posting provisions of the law and investigations of the activities of wholesalers.

Alcoholic Beverage Control Appeals Board

This agency was created by the same constitutional amendment which created the Department of Alcoholic Beverage Control and its sole function is to hear appeals from decisions of the Department of Alcoholic Beverage Control. In general, it has authority to review these decisions only as to their legality, and its orders are subject to review by the courts.

The board consists of three members, appointed by the Governor, subject to confirmation by a majority of all of the members elected to the Senate, and removable in the same manner as the Director of Alcoholic Beverage Control. Present salaries of board members are $12,000 per year.

The board has a staff of six, all located in Sacramento and consisting of two attorneys and four clerical positions.

Financial Details

Both the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Appeals Board are supported out of the General Fund, with total estimated expenditures for 1958-59 of $3,496,157 and $103,863, respectively.

The Department of Alcoholic Beverage Control collects liquor license fees which are estimated to yield $10,700,000 in 1958-59. The Constitution, Article XX, Section 22, states that the Legislature shall provide for apportioning these fees between the State, and the cities and counties "in such manner as the Legislature may deem proper."

Section 25761 of the Alcoholic Beverage Control Act provides, in general, that 90 percent of all license fees collected shall be paid semi-annually to cities and counties on the basis of collections in the cities and counties. The use to which this money can be put by the cities and counties is not restricted by law. The remaining 10 percent of license fee collections goes to the General Fund with the general, although unstated intention that it will be used for support, as needed, of alcoholic rehabilitation functions.

Study Areas

There are two major problem areas in the administration of alcoholic beverage control.

One is the nature and quality of the enforcement program with particular reference to the operation of retail establishments. This has been studied recently by this committee and is the subject of a report to the California Legislature, dated February 8, 1957, pursuant to House Resolution No. 181, 1955. The committee continues to feel, as it has expressed before, that operations in this field should be subject to continuing legislative scrutiny.

The other is the role of the State Government as an economic regulator of the liquor industry. This appears to lend itself to study under the following five headings:

1. Fair Trade
2. Distilled spirits wholesalers and Rule 28
3. Gratuities and Advertisement
4. Limitation on liquor license
5. Separation of licenses

Each of these topics is considered in detail hereafter.

Fair Trade

Legal citations:	*Business and Professions Code*
A. Alcoholic beverages	Sections 24750-24757
B. Wine	Sections 24850-24881
C. Beer	Sections 25000-25010

On the basis that the "public welfare so requires," California, since 1937, has regulated competition within the alcoholic beverage industry by enforcing fair trade contracts. In essence, these contracts provide that no retailer may sell name brand alcoholic beverages at prices below those specified by the brand owner.

Opinions differ on the validity of fair trade measures Opponents claim brand owners receive a semimonopoly with abnormal profit margins. Proponents contend that without this fair trade measure a chaotic market condition would develop, eliminating many small and medium sized retailers, and abuses in advertising, price wars, and excessive consumption of alcohol would result.

Several policy questions concerning the proper role of the State Government appear to need review in this connection

(1) Is the restriction of competition inherent in fair trade beneficial mainly to the sellers and dealers in alcoholic beverages, with little, if any, benefit to the general public, or does it, as the proponents claim, protect the public against severe abuses?

(2) Whether or not the State Government should act as regulator has also been questioned. In most types of fair trade activity the brand owner is responsible for enforcing the contracts. Violators are subject to civil action in the courts with the brand owner being the plaintiff. Under the California law, the Department of Alcoholic Beverage Control is the regulator and violators may have their liquor licenses suspended or revoked.

(3) As regulator, the State is placed in the unique position of enforcing fair trade prices without having any authority to review, regulate or pass judgment on those prices. The brand owners determine prices, and it is at least possible that some day the State, because of collusion among the brand owners, may be in a position of protecting an oligarchy. The contrast between this arrangement and the procedure followed by the Public Utilities Commission for example, is self-evident.

(4) The disparity in the treatment of the various branches of the alcoholic beverage industry constitutes another serious defect. Distilled spirits and wine have mandatory fair trade, but beer only permissive contracts. The filing, procedures, price schedules, and trading areas also differ. Uniformity in the treatment of the various branches of the industry has been strongly advocated.

(5) Fair trade prices of alcoholic beverages vary according to the trading area. Distilled spirits have two trading areas, northern and southern; wine has three, northern, southern and mountain; and beer trading areas can subdivide counties. The equity of this arrangement has been questioned.

Distilled Spirits Wholesalers—Rule 28

Two sections of the Alcoholic Beverage Control Act regulating the activities of distilled spirits wholesalers have never been enforced. Section 23778 requires wholesalers to maintain a reasonable stock of distilled spirits at his premises. Section 23779 states that a wholesaler must be bona fide in order to maintain his license.

In the opinion of the Director of the Department of Alcoholic Beverage Control the necessary guides for determining whether wholesalers were complying with the law were lacking. Therefore on September 24, 1956, he adopted Rule 28 to carry out the above sections of the code. The effective date of the rule was July 1, 1957, but currently it is not being enforced because of litigation in the courts.

Certain wholesalers, dealing in specialty or private label brands, have furnished retail chains with large quantities of distilled spirits which were shipped directly from the distillery to the retailer. The wholesaler in this type of transaction does not maintain sizeable warehouse facilities or try to sell to a large number of clients. His business prospers by having a low overhead, selling in volume and taking a small markup. Proponents of Rule 28 contend this type of wholesaler is in reality a broker or agent of the retailers. Since California law prohibits retailers from engaging in wholesale activity, they further contend that this type of transaction circumvents the law and allows retailers to do indirectly what they are prohibited from doing directly.

These wholesalers object to being called brokers and state that their inability to obtain franchises from the "name brand" distilleries force them to handle private brands and resort to volume merchandising.

Gratuities and Advertisement

Legal Citations:	*Business and Professions Code*
A. Commercial bribery, interior signs	Section 25503
B. Tapping accessories	Section 25504
C. Free goods	Section 25600
D. Exterior signs	Section 25611

The prohibition against manufacturers, wholesalers, or retailers giving free goods or services in connection with the sale of alcoholic beverages supplements the fair trade laws. Without fair trade these restrictions probably would not be necessary. From the administrator's viewpoint, it is difficult to determine whether or not the gratuities are in connection with sales.

Limitation on Liquor Licenses

Legal Citation:	*Business and Professions Code*
A. On-sale general	Section 23816
B. Off-sale general	Section 23817

Since 1939, general retail liquor licenses have been limited to one per thousand population in each county. However, due to a "grandfather clause," permitting excess licenses in existence in 1939 to continue in effect, 44 counties in 1956 exceeded this limitation with respect to on-sale licenses, and 54 counties with respect to off-sale licenses. Most of the counties, however, which have a deficit of licenses, are the large metropolitan centers which have experienced heavy population increases during recent years. The disparity in the number of licenses, some having a surplus, others a deficit, has created two serious problems.[1]

(1) In surplus counties, many licensees are marginal operators and law enforcement officials are confronted with a policing problem.

(2) In deficit counties, licenses are bought and sold on the open market at speculative prices.

From an examination of the ratios of licenses, it is evident that the limitation policy has not been too successful. On-sale licenses in San Francisco may sell for $2,500; in Riverside for $8,000. The State collects only $580 per year as the license fee. This is an annual payment and is not to be confused with the $6,000 fee (instituted in 1955) charged by the State for issuing new, on-sale general licenses. Many of the problems encountered by the 1953-54 and 1956 legislative liquor investigations, such as speculation in licenses, corruption of liquor officials, and violations of the Alcoholic Beverage Control Act, were the result of the limitation and transferability of licenses.

Separation of Licensees

Legal Citations:	*Business and Professions Code*
A. Distilled spirits manufacturer	Sections 23771-72
B. Wholesalers	Section 23776
C. Retailers	Sections 23784-85

The three branches of the liquor industry, namely, manufacturing, wholesaling, and retailing, are prohibited from having, either directly or indirectly, a financial interest or control in any license or business outside its own branch. For example, a distilled spirits wholesaler cannot own or have a financial interest in a retail establishment. The reverse also holds true.

The purpose of this separation of licenses is to prevent the return of the monopolistic type of control that existed in the liquor industry

[1] The Director of Alcoholic Beverage Control has issued, effective January 26, 1959, a regulation permitting the transfer of all types of alcoholic beverage licenses from counties having surplus licenses to those having a deficiency or between counties having deficiencies

prior to prohibition. This type of separation of licenses is common to most, if not all, states which have a private liquor industry. There has been little criticism of the basic purposes of these restrictions. Administrators, however, have encountered difficulties in enforcement because of ambiguities in the law, and interlocking family relationships which appear dubious, but have remained with the letter of the law.

DEPARTMENT OF INDUSTRIAL RELATIONS

The Department of Industrial Relations is directed by Section 50.5 of the Labor Code "* * * to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment." Created by the Legislature in 1927, the department correlates the activities of various agencies responsible for enforcement of labor and related laws. The department was reorganized in 1945 into its present form, nine semiautonomous divisions under a director of industrial relations who is a member of the Governor's Council.

The department and all divisions have headquarters in San Francisco with branch offices in other cities. Two divisions, Administration and Labor Statistics and Research, have a staff relationship to the other divisions. Except for exemptions specified in the Labor Code, the director may require any division to enforce any laws within the jurisdiction of the department. A total of 1,087 positions for the department were authorized for Fiscal Year 1958-59. In addition, approximately 900 people are employed by the nonbudgeted State Compensation Insurance Fund Division.

The Director

The director is appointed by the Governor upon the advice and consent of the Senate and serves at the pleasure of the Governor. He is responsible for organization of the department, with the Governor's approval, and for all matters pertinent to operations of the divisions. The Division of Administration, which includes the director's office, renders fiscal, accounting and certain other services to the line divisions. The Supervisor of Industrial Accident Self-Insurance Plans is also included in this division. Approximately 50 people are employed by the division in department headquarters, San Francisco.

The Conciliation Service

The Conciliation Service is charged by Section 65 of the Labor Code with responsibility for mediation of labor-management disputes The service was created in 1947 to provide intrastate interests with a facility similar to federal services available to parties in interstate commerce. Upon request by one of the parties, the service may investigate a dispute. If a stoppage appears imminent, the service may offer to enter. If requested by parties to a dispute, the service may arbitrate or arrange for arbitration. A major new responsibility was given the service in 1957 when the Legislature directed it to settle any jurisdictional disputes which might arise from the creation of the Metropolitan Transit Authority of Los Angeles. This duty is being discharged with temporary personnel. In general, the service is directed to promote sound

employer-employee relationships. The service has a staff of approximately 15 persons operating out of San Francisco, Los Angeles, and Fresno on a statewide basis.

Division of Industrial Welfare

The Division of Industrial Welfare is responsible for compliance with orders of the Industrial Welfare Commission concerning wages, hours and working conditions of women and minor workers. Legislation creating the commission was passed in 1913 and ratified by constitutional amendment in 1914. The division was created to administer standards established by the commission. Responsibilities of the division and commission are described under Chapter 2 of the Labor Code. Five commissioners, at least one a woman, are appointed for staggered four-year terms by the Governor. A division chief is appointed by the commission from its membership. Division objectives are accomplished by complaint investigations, field inspections, legal action and scrutiny of permit requests. The chief may issue subpoenas and administer oaths in enforcement of commission orders and the Labor Code. The division presently has a staff of 59 persons located in 13 offices throughout the State.

Division of Housing

The Division of Housing, as defined by Chapter 3 of the Labor Code, is charged with enforcement of statutes and regulations concerned with hotels, motels and farm labor camps, and investigates reported substandard housing conditions. The Commission of Housing and Immigration was created by the Legislature in 1913 as an independent agency responsible to the Governor. In 1927, the commission became an advisory board to the newly created Division of Immigration and Housing of the Department of Industrial Relations In 1945, the division and commission were relieved of their immigration responsibilities and assumed their present titles. Policies of the division are guided by the five-member commission. Commissioners and the division chief are appointed by the Governor and serve at his pleasure. The division's staff of 51 is employed in 16 offices throughout the State.

Division of Labor Law Enforcement

The enforcement of all labor laws not specifically allotted to other divisions is the responsibility of the Division of Labor Law Enforcement. Originally a subdivision of the Bureau of Labor Statistics, empowered in 1883 by the Legislature to enforce laws relating to employment opportunities, the enforcement function was recognized in 1927 when the bureau's name was changed to the Division of Labor Statistics and Law Enforcement and incorporated in the Department of Industrial Relations. In 1945, the division was divided into the Division of Labor Statistics and Research and the Division of Labor Law Enforcement. The division chief, the Labor Commissioner, acts as chairman of the five-member Labor Commission All commissioners are appointees of the Governor. Chapter 4 of the Labor Code places wage and hour regulation, work environment and regulation of private employment agencies within the division's jurisdiction except where the Division of

Industrial Welfare has jurisdiction. The commissioner and his deputies have regular peace officer powers in enforcing provisions of the Labor Code. A staff of approximately 137 is distributed among 16 cities.

Division of Industrial Accidents

Under the California Workmen's Compensation Law, an agency is necessary to adjudicate litigated cases; Chapter 5 of the Labor Code assigns this area to the Division of Industrial Accidents The compulsory workmen's compensation act went into effect in 1913. When the department was created in 1927, the Industrial Accident Commission was incorporated as the Division of Industrial Accidents Originally, the commission had three members. In 1945, membership was expanded to seven, and two three-member panels were created, one to sit in Los Angeles, the other in San Francisco. The seventh member of the commission acts as chairman and division chief. All commissioners are appointed by the Governor with consent of the Senate for four-year terms. The commission has full judicial powers and is aided in reaching decisions by a permanent medical and legal staff. The staff of approximately 360 is located in 13 offices throughout the State.

Division of Industrial Safety

Under Chapter 6 of the code, the Division of Industrial Safety has jurisdiction over work areas where it is necessary to enforce safety and related laws. Created by the Legislature in 1945, the division assumed the duties of the Industrial Accident Prevention Bureau, an arm of the Industrial Accident Commission since 1914. The division works under a four-member Industrial Safety Board appointed by the Governor. The director of Industrial Relations sits as chairman of the board. Objectives are pursued with a program of public education, liaison with other public agencies and a corps of field safety engineers, all devoted to reducing industrial accident rates. Minimum safety standards, after approval by the board, are incorporated in the California Administrative Code. A staff of approximately 220 work through 16 offices located in as many cities.

Division of Labor Statistics and Research

Department statistical and fact-finding activities are carried on by the Division of Labor Statistics and Research The division was originally established in 1883 and was incorporated into the department in 1927. In 1945, the division's enforcement obligations were removed when the Division of Labor Law Enforcement was established. Present responsibilities are defined in Chapter 7 of the code. The present division chief holds permanent civil service status Statistics on all phases of industrial relations and the labor market are collected and form the basis for a number of periodicals. In collecting and publishing data, the division co-operates with other state agencies and the U. S. Department of Labor. The entire staff of approximately 70 is located at San Francisco.

Division of Apprenticeship Standards

Section 3070 of the Labor Code, pertaining to apprenticeship, is administered by the Division of Apprenticeship Standards. The division is presently operating under 1939 and 1947 statutes. Prior to 1937, the

apprentice program was under laws passed in 1860. Standards for apprentice wages, hours and conditions are established by the director of Industrial Relations with the advice of the Apprenticeship Council. The council is composed of six representatives each from employer and employee organizations, geographically selected, plus two representatives of the general public. The director of the department and a representative of the State Board of Education are ex officio council members and the director is ex officio administrator of apprenticeship. The division, under the council, works through state and local joint employer-employee apprenticeship councils to further the apprentice program A staff of approximately 123 works through 19 offices located throughout the State.

State Compensation Insurance Fund

When the State's compulsory Workmen's Compensation Code was enacted in 1914, the Legislature established the State Compensation Insurance Fund as a companion measure. Chapter 4 of the Insurance Code requires that the fund be competitive with, and operated in, the manner of a private insurance carrier. All profits and investment income are paid out to policyholders as cash dividends and the equivalent of normal state taxes are paid. The fund is under a board of four policy holding members, appointed by the Governor to four-year terms, and the director of Industrial Relations. Powers of the board are comparable to that of parallel officers in private insurance firms. The business of the fund is conducted by a manager appointed by the board. With approximately 900 employees, the fund maintains eight district offices in addition to the San Francisco home office.

Miscellaneous

The department is unusual in the large number of Governor's appointees it contains: eight of the nine divisions are headed by appointees and six of these have boards or commissions of four to 14 appointees. In addition, many of these appointees have exempt assistants. This situation, where both the director and the heads of divisions are appointed by the Governor, tends to obscure lines of authority and responsibility and to encourage division autonomy.

The status of the Division of Housing is unusual in that its jurisdiction is not closely tied to that of the other divisions or the general work of the department. With the possible exception of its farm labor camp responsibilities, the division has little in common with other divisions.

The divisions of Industrial Welfare and Labor Law Enforcement are concerned with the enforcement of closely related statutes. Industrial welfare has jurisdiction over women and minors, Labor Law Enforcement over men. Both divisions have other distinct responsibilities, but much of their work is concentrated in parallel areas Other divisions also have enforcement responsibilities which might be more effectively discharged by a single enforcement agency.

The Division of Conciliation is operating in an area where both federal and nontax-supported services are available Federal services are supposedly available only to those engaged in interstate commerce, and state service only to those in intrastate commerce, but a sharp distinction will not always be possible. Federal services are utilized

more intensively in those states where, unlike California, state-supported services are unavailable. Presumably, if the division were not available, federal services would be utilized more in California. The interjection of the service into jurisdictional problems arising out of the creation of the Metropolitan Transit Authority of Los Angeles gives the service entirely new responsibilities It may be an indication that the service may be required to enter into, on a growing scale, labor-management disputes of other public agencies, especially various districts. The service presently has no permanent machinery for dealing with this type of dispute.

The State Compensation Insurance Fund is self-supporting and does not appear in the budget. When organized in 1914, the Legislature loaned $100,000 which was soon repaid. Since its origination, the fund, for all practical purposes, has functioned as a private firm.

Revenues

The revenues of the department arise largely from fees collected by the various agencies and paid into the General Fund. During the 1955-56 Fiscal Year, the Department of Finance reviewed the relationship between fees and services rendered for the fees With the exception of Employment Agency and Artists' Managers Fees, costs of services exceeded revenues. Gross revenues from these fees and other reimbursements, as given in the Governor's Budget for the Fiscal Year 1958-59, are:

Division	*Actual 1956-57*	*Estimated 1957-58*	*Estimated 1958-59*	*Remarks*
Administration	$2,164	$3,000	$3,000	Miscellaneous revenue
Housing	25,995	27,200	27,900	Permit fees
Industrial safety	86,379	94,945	104,945	Inspection fees
Industrial accident	16,327	19,327	22,327	Testimony fees
Industrial welfare and labor law enforcement	147,106	168,450	150,450	Fees, fines and penalties
Totals	$277,971	$312,922	$308,622	

In addition, the Division of Conciliation is estimating approximately $30,000 will be required in the 1958-59 Fiscal Year for settlement of the Los Angeles Metropolitan Transit Authority dispute, to be reimbursed in full by the Los Angeles Metropolitan Transit Authority.

With the exception of the State Compensation Insurance Fund, all divisions draw on the General Fund for full support. There are no special funds. Expenditures, as given in the Governor's Budget for the Fiscal Year 1958-59, are:

Division	*Actual 1956-57*	*Estimated 1957-58*	*Proposed 1958-59*
Administration	$579,887	$717,154	$836,600
Conciliation	113,997	144,549	145,209
Industrial accident	2,050,325	2,642,350	2,985,929
Industrial safety	1,436,054	1,702,376	1,786,335
Industrial welfare	337,439	452,490	423,272
Labor law enforcement	736,619	872,750	902,936
Apprenticeship standards	680,310	779,183	809,626
Housing	339,866	383,595	375,377
Labor statistics and research	333,047	427,283	476,919
Total	$7,063,996	$8,684,820	$9,348,361

Study Areas

1. Governor Appointees

A major problem in effective executive control is posed by some 40 Governor's appointees in the department. The necessity for 40 appointees, including most division chiefs, has been seriously questioned. The director is responsible, according to Section 55 of the Labor Code, for organization of the department. Control of all commission and divisional records, funds and property is vested in the department by Section 58 The effectiveness of these statutory controls, as a practical matter, is questionable. In the past, divisions have acted with a high degree of autonomy. In the history of the divisions, several have had independent departmental status, responsible directly to the Governor. In this context, implementation of unified control in fiscal, personnel and other matters is difficult; divided responsibility acts to vitiate the power of the Director in the conduct of the department.

2. Interdepartmental Duplication

The Division of Housing is performing duties not generally considered a function of Industrial Relations. Many of the housing sites inspected by the division are also inspected by the Department of Public Health and Office of Fire Marshal, and the Department of Agriculture representatives visit farm labor camp locations The assignment of division responsibilities to other departments could reduce overall travel and overhead costs.

3. Possible Consolidation

The divisions of Labor Law Enforcement and Industrial Welfare administer similar activities. To the extent that there are nearly duplicate areas of responsibility, these two divisions could be consolidated with probable savings in personnel utilization and administrative costs. A merged division could also be in a position to assume enforcement activities of other divisions. A related situation exists in divisional branch offices. Divisional autonomy extends to decisions relative to location and size of branch offices. If these facilities could be operated on a pooled departmental basis, economies might very well be realized.

4. Inadequate Fees

In the general area of fees, the divisions charge for services rendered, but fees have not been adjusted upward as costs have increased. Costs of services exceed revenues in all but a few cases.

THE DEPARTMENT OF INVESTMENT

The so-called Department of Investment contains the:

State Banking Department;
Division of Savings and Loan;
Division of Corporations;
Division of Real Estate;
Department of Insurance.

These agencies are all engaged in regulatory activities, an important objective of which is the safeguarding of the money of private individuals either held in custody or invested in securities

Chapter 277 of the Statutes of 1929 added Sections 375-375d to the Political Code[1] which provided for a Board of Investment. This board was to be known as the Department of Investment for purposes of representation in the Governor's Council. The agencies making up the department retained all their former powers.

The Department of Investment is therefore a legal fiction. All of the so-called "divisions" of the department are wholly independent. Its primary purpose is to create a "director" who is a member of the Governor's Council and represents the agencies concerned The Director of Investment is the title of the chairman of the Board of Investment. This position rotates every six months between the members.

The statute requires the board to hold monthly meetings and the head of each agency to make a report of his agency to the board. The report of the Director of Investment to the Governor's Council is to include such matters as have been considered at the meeting of the Board of Investment However, in actual practice all members of the board, who are the heads of the independent "divisions," attend the monthly meetings of the Governor's Council anyway.

The members of the Board of Investment are as we have seen the Superintendent of Banks, the Commissioner of Corporations, the Insurance Commissioner, the Real Estate Commissioner, and the Savings and Loan Commissioner.

No apparent useful function is served by the so-called "Department of Investment "

State Banking Department

State regulation of banks in California began in 1878 with the creation of a Board of Bank Commissioners. The Bank Act of 1909 created a "State Banking Department," which, under the Reorganization Act of 1929, was designated the "Division of Banking" for the purpose of representation on the Board of Investment, although the State Banking Department retained all of its former powers as an independent agency.

The State Banking Department functions under the administrative control of the State Superintendent of Banks, who is appointed by the Governor and holds office at the pleasure of the Governor. The superintendent is a member of the Board of Investment. The present salary of the superintendent is $16,500 per year and is fixed by statute.

The chief responsibilities of the superintendent are the administration and enforcement of the provisions of the state banking laws. The principal duties of the office are concerned with the licensing and examination of banks and trust companies, and the conservation or liquidation of institutions if in financial difficulty. Offices of the superintendent are maintained in San Francisco and Los Angeles and the agency reports an authorized staff of 73 for 1958-59, of which 55 are in San Francisco and 21 in Los Angeles. The offices are supported from the State Banking Fund, which derives its revenue from assessment and other fees levied on the banking business regulated by the State.

[1] These sections were repealed in 1945 and codified as Sections 15480-15485 of the Government Code.

The State Banking Fund has estimated income of $580,625 and estimated outgo of $696,355 for 1958-59, and an accumulated surplus estimated at $489,877 as of June 30, 1959.

Division of Savings and Loan

State building and loan business was first brought under state regulation in 1891. Subsequent acts changed the administration of the agency until 1911, when a new act created the Office of "Building and Loan Commissioner."[1] Under the Reorganization Act of 1929, the agency was designated the Division of Building and Loan within the Department of Investment, although it retained its former powers, operating as an independent state agency.

The division functions under the administrative control of the Commissioner of Savings and Loan, who is appointed by the Governor, with the consent of the Senate, and holds office at the pleasure of the Governor. The commissioner is a member of the Board of Investment. The present salary of the commissioner is $15,000 per year and is fixed by statute.

The chief responsibilities of the Commissioner of Savings and Loan are the administration and enforcement of state laws regulating savings and loan business. The principal duties of the office are those of licensing, examination, and the conservation or liquidation of associations if in difficulty. Offices are maintained in Los Angeles and San Francisco, and the agency has an authorized staff of 46 for 1958-59, of which 19 are located in San Francisco and 27 in Los Angeles. The agency is supported from the State Savings and Loan Inspection Fund, which derives its revenue from assessments and fees levied on the savings and loan business under state regulation. The fund has estimated revenues of $490,150 and estimated outgo of $453,145 for 1958-59, and an accumulated surplus estimated at $447,845 as of June 30, 1959.

Division of Corporations

The Office of Commissioner of Corporations was created in a State Corporation Department in 1913, for the purpose of administering the "Investment Companies' Act." The California Corporate Securities Act (Statutes of 1917) is the successor to the Investment Companies' Act.

Through organizational change in 1929, the State Corporation Department was designated as the Division of Corporations within the Department of Investment, although it retained its autonomous position operating as an independent agency. The division functions under the administration of the Commissioner of Corporations, who is appointed by the Governor and holds office at the pleasure of the Governor. The commissioner is a member of the Board of Investment. The present salary of the commissioner is $15,000 per year and is fixed by statute.

The Office of Commissioner of Corporations is responsible for the administration of the Corporate Securities Act, which entails the issuance of permits to issue securities and the licensing of brokers and agents, and administering other phases of the act. The office is also responsible for the licensing and regulation of personal property and small loan

[1] The word "savings" substituted for "building" in 1953

brokers, credit unions, industrial loan companies, and escrow agents and check sellers and cashers as prescribed in the various acts. Offices are maintained in Los Angeles, Sacramento, and San Francisco, and the agency has an authorized staff of 199 for 1958-59, exclusive of temporary help. It is noted that this is the only agency within the Department of Investment which is presently supported from the General Fund, with revenue earned through its operations credited to the General Fund. Revenue for 1958-59 is estimated at $1,634,705 which is derived from issuance of permits to issue securities, licensing, examination and miscellaneous fees. Total net expenditures for the year are estimated at $1,135,849 after deducting reimbursements of $307,200.

Division of Real Estate

The division was first created as a department in 1919. Under the general reorganization of 1929, the department was designated the "Division of Real Estate," as a part of the Department of Investment, although it retained its former powers operating as an independent state agency.

The division is headed by the Real Estate Commissioner, who receives a salary of $15,000 per year. The commissioner also serves as chairman of the Real Estate Commission,[1] which is a nonsalaried, advisory body. There are seven commission members, including the commissioner, and all are appointed by the Governor.[2] All members, including the commissioner, are required to have been actively engaged as real estate brokers in California for five years prior to appointment The commissioner is also a member of the Board of Investment and the State Public Works Board. The principal functions of the division are the licensing and regulation of brokers and salesmen engaged in real estate and subdivision activities, business opportunities, including mineral, oil and gas, and certain lending activities as prescribed by law.

The division maintains offices in Sacramento, San Francisco, San Diego, Los Angeles, Oakland, and Fresno, and provides office space and services in various other cities for the purpose of holding examinations and hearings The agency has an authorized staff of 184 for 1958-59, exclusive of temporary help. The division is supported from the Real Estate Fund, which derives its revenue from license fees and various other fees levied in the regulation of the real estate business of the State. Legislation enacted in 1956 provides that one-fourth of all receipts from fees are allocated to a Research and Education Fund to be appropriated to state educational institutions to be used in connection with research and education in the field of real estate. The Real Estate Fund has estimated total income of $1,533,190 and estimated total outgo of $1,448,992 for 1958-59, and an accumulated surplus in the fund estimated at $1,564,153 as of June 30, 1959 The Real Estate Education and Research Fund has estimated income of $425,928 for 1958-59, estimated outgo of $359,833, and an estimated surplus at June 30, 1959, of $1,015,952.

[1] Title changed in 1957—formerly the "Real Estate Board"
[2] Chapter 549, Stats of 1957, provides that the appointment of the Real Estate Commissioner is subject to confirmation of the Senate

Department of Insurance

Although this department is no longer attached to the Department of Investment as a division, as are the other four agencies making up the department, there still remains a relationship in that the Insurance Commissioner is still designated as a member of the Board of Investment.

The Department of Insurance was first established in 1868 as the "Office of Insurance Commissioner." During the period 1929 to 1941 the department was known as the Division of Insurance of the Department of Investment, although it retained its former powers as an independent state agency. Legislation enacted in 1941 designated the Division of Insurance as the Department of Insurance and declared it to be no longer a part of the Department of Investment. However, while this separation was effectuated, the codes still provide that the Insurance Commissioner, who heads the Department of Insurance, retain his membership on the Board of Investment.

The Insurance Commissioner is appointed by the Governor, with the consent of the Senate for a term of four years. The present salary of the commissioner is $17,000 per year and is fixed by statute.

The Insurance Commissioner administers the insurance laws of the State, and regulates all companies, agents, brokers, and solicitors authorized to engage in the insurance business in the State. The commissioner also compiles data which is submitted to the Board of Equalization to be used as a basis for the taxation of insurers. The commissioner also has the responsibility of supervision and examination of employee welfare funds in operation in the State.

The commissioner maintains offices in San Francisco, Los Angeles, San Diego and Sacramento. The department is organized into four divisions: administration, compliance and legal, license, and the examination and financial analysis division. The department has an authorized staff of 218.5 for 1958-59, including temporary help. The department is supported from the Insurance Fund, which derives its revenue from license fees, examination fees, assessments, taxes and other fees levied on insurance business. The Insurance Code provides that the unencumbered balance in the fund at June 30th of each year in excess of $2,000,000 is to be transferred to the General Fund. The Insurance Fund has estimated revenues for 1958-59 of $2,149,035, and estimated expenditures for support of the Department of Insurance of $1,929,638, which leaves excess revenues of $219,397 available for transfer to the General Fund, and a surplus at June 30, 1959, of $2,000,000 as provided for by law.

Study Areas

The agencies comprising the so-called Department of Investment all have regulatory functions, many of them somewhat similar to those of the agencies in the Department of Professional and Vocational Standards, the principal difference being that the emphasis is on safeguarding the financial responsibility of the agencies involved since they all handle the investing public's money. Several topics germane to the efficiency and economy of state operations seem in need of legislative study.

One is whether the degree of regulation is appropriate to our existing economy. A second has to do with the quality of the existing regulatory practices. A third is whether, assuming that the existing level of service is appropriate and the quality satisfactory, the same objectives could not be achieved at a lower cost by changes in the organizational structure. One possibility would be to combine the five separate agencies into a single department with resulting centralization of the housekeeping activities and integration of similar field activities, such as the examination of financial records. Such unification would also appear to improve administration in that the number of offices reporting directly to the Governor (already far too high) would be reduced.

DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources, created by Chapter 128, Statutes of 1927, is charged with the responsibility of conserving and protecting the State's natural resources for the continued enjoyment and use by the people. There are seven divisions within the department, five of which are headquartered in Sacramento and two in San Francisco. Because of the statewide interests of this agency, most of the divisions have field offices located throughout the State.

The department is under a director who is appointed by and serves at the pleasure of the Governor. The director oversees the operation of the department and co-ordinates its activities to the extent practicable under existing statutes.

The department has an authorized complement of 2,214 positions plus an average annual 1,530 man-years of seasonal aid in the Division of Forestry for an authorized total of 3,744 positions.

Division of Administration

The Division of Administration was created by administrative order in 1927 and is the central service unit for the department. It performs housekeeping functions for the other divisions of the department as well as for the California Outdoor Recreation Plan Committee, the State's water pollution control boards on a reimbursable basis.

The division employs 93 persons to perform its assigned activities. All of its activities are centralized in the department's headquarters operation located in Sacramento.

Division of Beaches and Parks

The Division of Beaches and Parks is vested with the responsibility of acquiring, establishing, developing, operating and maintaining the State Park System The division is only nominally a part of the Department of Natural Resources The independent State Park Commission (mentioned below) actually has virtual control over the division.

Although the division was legally created in 1927 (initially as the Division of Parks), beaches and parks formation and administration began as early as 1865 when President Lincoln signed an order which established Yosemite Valley as the Nation's first state park. Subsequently Yosemite Valley was re-ceded to the Federal government to become a national park.

Prior to the creation of the State Park Commission, many boards, commissions and private organizations were created to secure specific areas of the State for public ownership.

The first major impetus was afforded the expansion of the state park system by a six million dollar general obligaton bond issue passed by the Legislature in 1927 and ratified by vote of the people in 1928. Since that time additional financing was provided through a major portion of the accrual to the State Lands Act Fund from oil and gas leases and a 15 million dollar general obligation bond issue authorized by Chapter 1422, Statutes of 1945.

In addition to its headquarters operation in Sacramento, the division has six district offices throughout the State, and 891 authorized positions.

This division is peculiar in that it is administratively under the State Park Commission, the latter being the only commission connected with the department which is vested with administrative and policy forming responsibilities. The commission is composed of seven members appointed by the Governor with the advice and consent of the Senate.

Division of Forestry

The Division of Forestry was created by Chapter 128, Statutes of 1927 and included in the Department of Natural Resources. The first State Forestry Board was created in 1885 and abolished in 1893. In 1919 a Board of Forestry was created, and in 1927 was reconstituted in its present form to consist of seven members appointed by the Governor with the advice and consent of the Senate.

The Division of Forestry is responsible for the fire protection on the state and privately owned land in California having statewide interests. The majority of its services and staffing are confined to fire suppression and standby activities. To a considerably lesser degree, the division engages in a variety of fire prevention activities and also provides technical forestry services, range improvement programs, production of nursery stock for erosion control, windbreaks and plantings around public buildings, and the administration and enforcement of forest practice rules. The division also engages in co-operative programs with federal agencies and individual land owners in the control of white pine blister rust and forest insects.

To perform its varied responsibilities, the division has an authorized complement of 1,022 full-time positions and 1,530 man-years of seasonal aid for a total of 2,552 employees.

Division of Mines

This division, as a unit in the Department of Natural Resources, was created by Chapter 550, Statutes of 1941. It had existed in some form since 1880.

The primary function of the Division of Mines is to provide information on the mineral resources of the State. Its one regulatory function is the inspection of ore buyer licenses which consumes only 25 percent of the time of one employee. The division also conducts geological surveys in co-operation with the U. S Geological Service and is vested with the responsibility of preparing a State Geologic Map.

The division is administered by a chief called the State Minerologist who is headquartered in San Francisco. To aid in disseminating and gathering information, branch offices are maintained in Redding, Sacramento and Los Angeles.

There is a State Mining Board which was established by Chapter 335, Statutes of 1929, consisting of five members appointed by the Governor and serving four-year staggered terms The board establishes policy for the guidance of the State Minerologist.

To perform the assigned duties of the division there are 60 authorized positions.

Division of Oil and Gas

The Division of Oil and Gas in its present form was created in the Department of Natural Resources by Chapter 93, Statutes of 1935.

This division's responsibility is to supervise drilling, operation, maintenance and abandonment of wells to prevent, so far as is possible, waste of oil and gas and the pollution of underground water by these activities The division is also charged with the responsibility of preparing an annual report on oil and gas drilling, exploration, etc., showing the total amount of oil and gas produced by each county plus the total cost of operating the division in the previous year The report is also to show the net amount remaining in the Petroleum and Gas Fund for expenditures in the subsequent year.

The Division of Oil and Gas has all of its operation expenditures defrayed by the industry through a charge levied on oil and gas producers. The current charge is approximately two mills per barrel of oil produced and per 10,000 cubic feet of gas sold The rate of fees is adjusted annually to insure continued support of the division as well as the maintaining of a $50,000 surplus in the Petroleum and Gas Fund.

To establish and maintain consistent control of the industry, producers were authorized to establish district oil and gas commissioners by Chapter 536, Statutes of 1919. Each of the six existing districts is authorized from five to seven commissioners, depending on the size of the district. These commissioners are elected by the oil and gas producers of their respective districts to serve a three-year term The number of votes any producer can cast for his chosen commissioner is based on one vote per each $100 assessment paid.

To perform the work desired to be accomplished by the division as authorized by the industry, the Division of Oil and Gas has 83 authorized positions.

Division of Soil Conservation

This division was created by the provisions of Chapter 1680, Statutes of 1955. Prior to that date, state soil conservation activities were administered by the Soil Conservation Commission which was established by Chapter 1187, Statutes of 1945 On the establishment of the division, the commission became a policy making body.

The primary function of the division is to aid interested local co-operators in the formation of soil conservation districts Of late it has been given another major function by the Legislature which is to plan for the development of small watershed areas with co-operation of federal and local agencies.

The State Soil Conservation Commission is composed of seven members appointed by the Governor and serving four-year terms The commission was named by the Governor as the state agency to accept and

review applications from local districts for small watershed development under the Federal Aid Public Law 566, 83d Congress (as amended by Public Law 1018, 84th Congress).

To perform its varied functions the division has an authorized complement of 48 employees.

Division of Small Craft Harbors

This, the newest division within the department, was created by the provisions of Chapter 2362, Statutes of 1957, and is authorized to make loans for harbor planning and/or construction to cities, counties and harbor districts having the power to acquire, construct, and operate harbors. It is also empowered to acquire, construct, develop, improve, maintain and operate small craft harbors within the State.

As a policymaking body, a small craft harbor commission was also formed consisting of seven members appointed by the Governor.

At the present time, the division's operations are being defrayed from a one-time appropriation to the Small Craft Harbors Revolving Fund from the Motor Vehicle Fuel Tax Fund. The Legislature made this appropriation based on the fact that all tax paid on fuel used in propelling watercraft is refundable to the user on application, and it was recognized that a certain percentage of users did not make application for refund. The Legislature felt that the $750,000 transferred to the Small Craft Harbor Revolving Fund was not an unreasonable amount based on certain statistics provided it by the Senate Committee on Small Craft Harbors. The Legislature also provided 5 million dollars as a loan from the Investment Fund for use by the Small Craft Harbors Commission in granting construction loans to qualified applicants. In the November, 1958, general election, the voters also authorized 10 million dollars of general obligation bonds to be used for this purpose. The division now has an authorized complement of 16 employees.

Revenue and Expenditure Data

The following data reflects pure revenue and nonreimbursable expenditures, except in the case of the Division of Oil and Gas where all expenditures are reimbursed.

Revenues by Fiscal Year

Division	*1956-1957*	*1957-1958*	*1958-1959 (estimated)*
Beaches and Parks	$4,661,111	$9,265,344	$20,708,308
Forestry	608,351	1,007,913	583,080
Mines	31,087	31,329	366
Oil and Gas	650,734	716,589	763,491
Total	$5,951,283	$11,021,175	$22,055,245

Support Expenditures by Fiscal Year

Division	*1956-1957*	*1957-1958*	*1958-1959 (estimated)*
Administration	$312,238	$379,065	$399,931
Beaches and Parks	4,437,363	6,001,485	6,879,330
Forestry	12,933,569	14,476,742	15,893,213
Mines	557,002	584,376	593,451
Oil and Gas	650,734	716,589	747,970
Small Craft Harbors	----	47,211	147,240
Soil Conservation	111,930	208,730	439,170
Total	$19,002,836	$22,414,198	$25,100,305

Since the 1956-57 Fiscal Year, total capital outlay expenditures have averaged approximately 20 million dollars the major portion of which is reflected in the accelerated acquisition program of the Division of Beaches and Parks.

Study Areas

The following appear to be areas for study that could result in significant improvements in the efficiency and economy of state operations.

1. The top organization structure of the department with particular reference to the division of responsibility and authority between the Park Commission, the Chief of the Division of Beaches and Parks and the Director of the Department of Natural Resources.
2. The tests or criteria used in determining whether a given area or facility should be or become a state park or whether it should be left to local administration and support and whether all properties now in the state park system should so remain.
3. The distribution of functions among the several divisions of the department as well as the distribution of functions as between the Department of Natural Resources and other state agencies.

STATE PERSONNEL BOARD

California civil service was born as a part of the reform movement under the leadership of Governor Hiram W. Johnson. It had the support of both major political parties and the sponsorship of many civic organizations. California's first Civil Service Act became a reality on August 15, 1913. Although this act was a product of compromises, its sponsors firmly believed that never again would the spoils system return to California's State Government.

The act provided for a three-man commission appointed by the Governor. The prevailing thought was that the selection of employees should be solely on merit, efficiency, and fitness. Their first biennial report (1914) declared "The first great objective of a civil service law has been accomplished. There are no longer political appointments in California."

The commission and its staff soon realized they had been unduly optimistic Hostility developed among some members of the Legislature and some executive officials. Various defects of the act became apparent and there was also a lack of adequate financing. However, in spite of many handicaps the early workers of public personnel management took significant steps toward better government in California. The first real classification plan was completed in 1922. In 1930 and 1931, an improved plan was formulated and became the basis of the plan in operation today. A salary standardization program was effected in 1924.

During the period 1921 through 1934, the commission was reorganized four times. In 1929 a major reorganization of all State Government was completed and the Civil Service Commission became the Division of Personnel and Organization within the Department of Finance.

Notwithstanding the initial progress, many persons opposed the merit program. Exemptions from civil service continuously became more numerous. By 1932 over half of all the state employees were either in exempt or "temporary" positions, or holding other quasi-political appointments.

The defects of the original act and the political pressures endangered the existence of the merit program. As this became more apparent, the California State Employees' Association, which had been founded in 1931, organized a campaign to secure a constitutional amendment writing the merit principle into the organic law. An intiative measure was placed before the people on November 6, 1934, and was carried four to one.

The amendment was intended primarily to correct three evils: (1) political control of the administration of civil service; (2) exempting of employees from the civil service law by either the Legislature or the commission; and (3) the unreasonable use of temporary appointment authorizations to evade the intent of the Civil Service Act.

The Constitutional Amendment (Article XXIV of the Constitution of California) established the State Personnel Board as it is presently constituted. Provisions of the article include the following:

Section 1. Permanent appointments and promotion in the State Civil Service shall be made exclusively under a general system based upon merit, efficiency and fitness ascertained by competitive examination.

Section 2. The Personnel Board shall consist of five members appointed by the Governor for a term of 10 years. A member may be removed by a vote of two-thirds of the members elected to each house of the Legislature.

The board shall annually elect one of its members president and shall appoint and fix the compensation of an executive officer who shall be a member of the State Civil Service but not a member of the board.

The executive officer performs and discharges all of the powers, duties, purposes, and functions granted in the Constitution and under law. However, the adoption of rules and regulations, the creation and adjustment of classifications and grades, and dismissals, demotions, suspensions and other punitive action for or in the State Civil Service is the duty of the board and a vote of the majority of the members of the board is required to activate these functions.

Section 3. The board administers and enforces all the laws relating to the State Civil Service.

Section 4. This section provides for the various exemptions to the State Civil Service such as elective officers, department heads, deputies, employees of the University of California, etc.

Section 5. This section states that the provisions of Article XXIV are self-executing but that legislation not in conflict therewith may be enacted to facilitate its operations.

Section 6. This section provides that no temporary appointment of a person to any position shall be made unless there is no employment list from which such position can be filled. Also, no person may hold a given position under temporary appointment for a longer period than nine months in any consecutive 12 months, nor can any person serve in the State Civil Service under temporary appointment for longer total period than nine months in any consecutive 12 months.

Section 7. This last section provides that nothing in the article will prevent or modify the giving of preferences in appointments and promotions in the State Civil Service to veterans and widows of veterans as is now or hereafter may be authorized by the Legislature.

Parts 1 and 2 of Division 5 of Title 2 of the California Government Code, Sections 18000 through 19765, pertain to the administration of personnel activities and provisions such as determination of salaries, vacations, sick leave, job classification, prohibitions and offenses, etc.

The State Personnel Board has the basic responsibility to see that the various state agencies follow the provisions of the law and it also has the responsibility to act as the central personnel agency for determining the amount of pay and the job classifications. The board also acts as the sole agency examining and certifying each individual seeking employment within the civil service

Chapter 1 of Division 1, Title 2 of the California Administrative Code provides the mechanism for carrying out the laws set forth by the Legislature and the policies of the State Personnel Board. The sections of the Administrative Code are the compilation of all the rules and regulations that have been adopted by the Personnel Board.

The State Personnel Board is both a service and control agency. The basic responsibility of the board is that of supplying state agencies with qualified employees for approximately 2,414 different classes of jobs. It is the further responsibility of the board to regulate the personnel activities of state agencies to the end that fair treatment is given every employee, and that employment conditions are maintained which enable all employees to work at their maximum efficiency.

The State Personnel Board operates the State's recruiting and examining program on the fundamental principle that all qualified citizens must be permitted to compete for state jobs under equal conditions, with the competition based solely on their relative merits. Qualified persons are urged to compete for state employment, and candidates are tested to determine which are best suited for the various state jobs. In order that examinations may be so constructed as to select those persons best suited to perform the work, each state job is studied and classified according to its duties and responsibilities and the qualifications a person must possess to be able to perform the work of that job.

In selecting persons for state employment, a variety of testing methods are used, including written examinations to determine the extent of the candidates' education, experience, and personality traits as they pertain to the jobs; physical examinations to determine their physical condition; and practical performance tests to determine their manual skills and their skill in the operation of equipment Employment lists of qualified persons resulting from these examinations are maintained by the Personnel Board for the various state jobs, and an orderly procedure for filling these jobs as they become vacant is provided to the operating agencies.

The State Personnel Board established the rates of pay for state jobs in such a manner as to provide equal pay for equal work within the

state service and to make the salaries paid by the State comparable to those paid for similar employment in private concerns and other governmental agencies.

In addition to providing service to the state agencies whose employees are subject to civil service, technical personnel facilities are made available to other agencies by the board through its Cooperative Personnel Services Division. These services are rendered at cost to local jurisdictions and to state agencies whose employees are not subject to civil service or who have independent responsibilities relating to the selection of personnel. At the end of Fiscal Year 1956-57 the Co-operative Personnel Services staff of the board was performing examining services for 101 cities, counties, local school systems, and state agencies. In addition, special studies have been made for numerous jurisdictions to administer better personnel systems than they would otherwise be able to afford.

In order to correct any inequities in classification or pay which may have arisen among employees, a program has been established to review each year the work performed by a portion of the civil service employees. It is estimated that each agency is surveyed every seven or eight years.

In 1945, the Legislature established a Salary Increase Fund and authorized the State Personnel Board to use moneys appropriated into it from time to time to keep civil service salaries in reasonable relationship to salaries paid by other public and private employers. In order to determine what salaries are being paid in private employment, the State Personnel Board co-operates with a number of federal and local governmental agencies in conducting wage and salary surveys in the San Francisco, Los Angeles, San Diego, and nonmetropolitan areas. As a result of these surveys, state salaries are kept in line with rates for comparable work elsewhere.

Since 1947, the State Personnel Board has been encouraging programs of in-service training for state employees. Departments are assisted in establishing training programs, training materials are provided and instructors are made available for certain subjects. The objective of the program is to improve the quality of state service by increasing the effectiveness of state employees.

The board now provides departments and employees with medical advice to reduce medical disabilities and sick leave. Medical standards are established for various types of employment, and recommendations are made on the development of a healthy working environment and the elimination of health hazards. In addition to the medical program, departments can obtain advice and assistance in planning and conducting safety programs for their employees.

The State Personnel Board has approximately 399 employees with all but 29 positions budgeted in the Sacramento headquarters. The 29 not in Sacramento are located in the branch offices in San Francisco and Los Angeles. The main functions carried forth in the branch offices are recruitment and testing.

The 1958-59 Budget for the State Personnel Board reflected a proposed total expenditure for support of $2,627,872. This included $162,000 in contributions to the State Employees' Retirement Fund. The source of support of the board is the General Fund. The board will

also receive approximately $264,668 from other state agencies and units of local government as reimbursement for services rendered by the Co-operative Personnel Services Division. This division was established several years ago to provide personnel services such as examining, classification, pay plans, and recruitment services to units of local government on a contractual basis. The division is completely self-supporting.

Study Areas

The following appear to be areas for study that would have a significant effect upon the cost and efficiency of State Government.

1. Examination Procedure

At present the average processing time for civil service examinations, which includes an oral interview as part of the total procedure, from written date to list date is 63 days. In other words, from the time a person takes the written examination until he is notified if he is eligible for employment, nine weeks have elapsed. The board has adopted procedures for streamlining the examination process for classes in which there is a severe recruitment problem, such as doctors and engineers, so that the person may walk in, be interviewed, and hired on the spot. In terms of the calibre of persons hired and the processing time eliminated, it would appear that substantial savings could be made in this area if carefully administered.

2. Examination Content

The Legislative Analyst commented in the past Analysis of the Budget Bill of the State of California for the Fiscal Year July 1, 1956, to June 30, 1957:

> "The most serious difficulty seems to be centered in the examination function. The board apparently feels that written examinations based upon factual content are a desirable measure of ability for all state positions rather than aptitude tests or unassembled examinations. Since the staff of the Personnel Board must prepare these examinations quite rapidly, they are often forced to assemble them hastily from files of questions, many of which may be irrelevant or a poor measure of abilities sought by the examination."

On the same page, the following statement was made concerning the use of outside board members on all oral boards:

> "We also feel that reconsideration should be given to the whole policy of having outside members serve on all rather than selected appraisal boards and have some boards composed entirely of state employees whose judgment of candidates would conceivably be completely adequate. The department should assess the number of professional people involved in arranging appraisal board meetings, answering protested questions, reviewing applications, and evaluating education and experience to see if this function can feasibly be headed by one professional person with a staff of clerical help. We understand that 1.5 to 2 professional positions are now used for this purpose."

a. Are there changes that should be made in the disciplinary program for state employees? The appointing powers now are greatly limited in the removal of a person from his position pending an investigation. Presently, this can only be done when the charges involve mistreatment of persons in a state institution or immorality.

b. Should the frequency and standards for granting salary increases be modified? Under existing law and rules governing granting of salary increases, the great majority of employees receive a one-step increase in salary each year until they reach the maximum of the salary range for their class. Most salary ranges consist of an entry salary and four additional steps of 5 percent each. As of July 1, 1958, there were 30,469 employees at the maximum of their salary range. This was 44.6 percent of the full-time employees who receive a monthly salary. In moving from the minimum of a salary range to the maximum, an employee typically receives 21 5 percent in salary increases during the first four years of employment in addition to any adjustments made in his basic salary range. However, after he has reached the maximum of the salary range, the employee cannot receive further salary increases in that class unless there is a change in the basic salary range.

The fact that under the present salary increase program of the State an employee moves fairly rapidly for a period of four years and then can qualify for no further merit increases, regardless of how long he stays in his position, may be a weakness in the present salary adjustment program. By a combination of legislative and administrative action, it is possible that a plan for salary increases could be developed to place far greater emphasis upon the recognition of employees who reach and maintain a high level of efficiency in their work.

If this were done, it has been suggested that the State would be far closer to a true "merit system," than a plan which simply appears to reward seniority, particularly when security of tenure is the result of statute rather than ability.

DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS

The Department of Professional and Vocational Standards was created in 1929 for the purpose of co-ordinating the administrative and fiscal activities of those state boards and commissions whose principal function concerned the regulation and licensing of business, professional, and vocational groups. Specifically, the department was designed to perform all accounting, personnel, and fiscal work for these licensing groups, and, in addition, it performs liaison work with all governmental agencies, prepares budgets, and exercises budgetary control over all units organic to it.

When the department was created, it consisted of only 10 boards and commissions. Today it contains 28. During the 1957-58 Fiscal Year over 490,000 licenses to engage in some business, profession or vocation were issued by these boards and commissions.

Laws pertaining to the organization, function, administration, duties, responsibilities, and obligations of the department and its boards and commissions are contained in the Business and Professions Code, Sections 1 through 9769 and in Section 11500 of the Government Code.

The department is headed by a director who is appointed by and serves at the pleasure of the Governor. He is responsible for conducting the affairs of the department, co-ordinating overall agency and departmental operations, formulating policies within the statutory framework, and representing the department as a member of the Governor's Council.

There are presently 164 board and commission members serving the various agencies, all of whom are appointed by the Governor. Each of these boards and commissions is legally empowered to establish the rules and policies which control the activities of those regulated by them.

The department has its principal office in the Business and Professions Building at 1020 N Street in Sacramento, and maintains branch offices in both San Francisco and Los Angeles. Four of the department's 28 agencies have their headquarters offices located outside the capitol city.

Including the personnel utilized in departmental administration, there are currently 435.7 full-time positions authorized in the department. The total number of positions authorized to each of these agencies during the 1958-59 Fiscal Year is as follows:

Departmental Administration	32.0
Division of Administrative Procedure	24.0
Board of Accountancy	10.0
Board of Architectural Examiners	5.0
Athletic Commission	11.0
Board of Barber Examiners	14.0
Cemetery Board	3.0
Board of Chiropractic Examiners	5.5
Board of Civil and Professional Engineers	27.5
Contractors' License Board	104.3
Board of Cosmetology	26.3
Board of Dental Examiners	7.6
Board of Dry Cleaners	21.0
Board of Funeral Directors and Embalmers	4.6
Bureau of Furniture and Bedding Inspection	43.9
Board of Guide Dogs for the Blind	*
Board of Landscape Architects	1.0
Board of Medical Examiners	24.1
Board of Nurse Examiners	23.0
Board of Optometry	3.0
Board of Pharmacy	25.0
Bureau of Private Investigators and Adjusters	3.5
Certified Shorthand Reporters' Board	1.4
Board of Social Work Examiners	2.0
Structural Pest Control Board	5.0
Board of Examiners in Veterinary Medicine	1.0
Board of Vocational Nurse Examiners	5.0
Yacht and Ship Brokers' Commission	2.0
Total	435.7

* This agency does not have any full-time personnel. Its activities are directly administered by departmental administration

Of the 435.7 authorized full-time positions, 181 positions are engaged in either inspectional or investigative work, 202 positions work in a clerical capacity, and the remaining 52.7 positions are administrative.

The personnel of this department is geographically dispersed as follows:

Sacramento	200.7
San Francisco	92
Los Angeles	143

The department is supported by licenses, fees, penalties and fines. Each board or commission receives its own revenues from these sources and, with one exception, deposits its receipts in its own special contingent fund from which it also pays its expenses. Departmental overhead is charged against each board or commission on a pro rata basis. The Board of Guide Dogs for the Blind is the sole agency that deposits its revenues in the General Fund and receives its support therefrom.

The fiscal magnitude of the department is shown by the following:

Year	*Income*	*Outgo*
1955-56 (actual)	$3,026,563	$3,287,570
1956-57 (actual)	3,077,865	3,563,282
1957-58 (actual)	3,423,273	3,917,944
1958-59 (estimated)	3,859,530	4,374,134

Outgo has exceeded annual income in recent years because of accumulated surpluses in each of the special contingent funds, and fee reductions designed to reduce these surpluses to a one-year level.

Study Areas

The following points appear worthy of detailed examination.

1. Manpower Duplicating

In each of the agencies that does inspection or investigative work, separate staffs of enforcement personnel are maintained. In a number of cases the type of work performed by these employees is substantially the same and requires comparable qualifications. For example, the inspection activities of the Board of Barber Examiners and the Board of Cosmetology are almost identical in character and do not relate particularly to any special ability or technical skills in those fields. They involve, in reality, no more than sanitary inspections of the shops. If a single staff of inspectors were used by both of these agencies, considerable savings in travel time, effort, and costs could be achieved. Similar consolidations could be accomplished in other agencies of this department, and among the several agencies in terms of clerical work, mailing, cashiering, and license issuance.

2. Lack of Central Authority

The divided authority and responsibility that exists between the director and the individual boards has always presented an administrative problem in this department.

Section 108 of the Business and Professions Code provides that each of the boards in the department "* * * exists as a separate unit, and has the function of setting standards, holding meetings * * *, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of law * * *, issuing citations and holding hearings for revocation of licenses, and imposing penalties following such hearings * * *" Decisions of the boards in these matters are not subject to review by the director of the department. The powers granted to the director are confined to co-ordinating the administrative and fiscal affairs of several agencies.

In the interst of providing greater efficiencies, economies, and service to the general public, it would appear that some of the powers and responsibilities currently vested in the individual boards should be

transferred to the director of the department. A straight-line organization, with the various boards acting in an advisory capacity to the department, and the director of the department responsible for the coordination and administration of *all* agency matters, would seem to be worthy of serious consideration.

3. Incomplete Consolidation

With the exception of the Division of Administrative Procedure, all agencies in the department are engaged in licensing and regulatory activities, but not *all* state agencies engaged in licensing and regulatory activities are in this department. Such agencies as the Division of Real Estate, Department of Insurance, Board of Osteopathic Examiners, Horse Racing Board, and the Department of Alcoholic Beverage Control operate separately in the regulation of these designated businesses.

THE PUBLIC UTILITIES COMMISSION

The Public Utilities Commission, as established in the State Constitution, consists of five members appointed by the Governor with the consent of the Senate. It has substantial jurisdiction over all privately owned public utilities in the State, including carriers of both persons and property and gas, electricity and water companies. Its principal, but not exclusive, regulatory functions are granting permission to operate, setting rates, prescribing areas of interest, establishing operating standards and procedures and the policing of conformance with the laws, rules and regulations.

The commission is practically autonomous because its decisions and orders (except for a very few technical matters) are not subject to review by any other state officer or agency, including the courts. Decisions of the commission are almost always unanimous.

The commission's principal duty is to protect the public by assuring public services of reasonable cost, continuity and reliability. As a part of this basic function, aid and assistance is given to individual utilities and their associations. For example, in order to assure the realization of its principal duty, the commission provides technical assistance in many matters which are indirectly related to establishing reasonable tariffs, continuity and reliability, including such as advice respecting financing, maintenance of facilities and operating efficiencies. In effect, the commission acts as a gratuitous technical consultant.

Headquarters of the commission is in San Francisco (Section 306, Public Utilities Code) with a branch office in Los Angeles and 13 additional field offices located throughout the State.

The distribution of the total authorized staff for 1958-59 was as follows, by division:

Division	*Staff*
Administration	76
Utilities	156
Utilities Finance and Accounts	35
Transportation	304
Legal	22
Examiner	36
Reporting	29.5
Total	658.5

Of the total staff, approximately 76 percent is located in San Francisco, 18 percent in Los Angeles and 6 percent in 13 small branch offices in other locations, ranging from Eureka in the north to San Diego and El Centro in the south.

Supervisory and other highly paid personnel are, for the most part, of the engineering profession to the exclusion of accountants except in the Finance and Accounts Division. This is in spite of the fact that a very substantial part of the staff work is of an accounting nature such as in connection with taxes and depreciation.

The commission members elect a president from among their number who presides at meetings and, more importantly, is the chief executive and administrative officer. Other than the president, there is no executive above the division level. In his dual status, the president necessarily dominates both the policy and administrative phases of the commission.

One of the most important functions of the Examiner Division is to act as a referee between utilities and the commission staff, one examiner being assigned to each formal matter such as a rate proceeding. It has been customary to assign "specialist" examiners to particular types of cases, e.g., one particular examiner will handle substantially all gas rate matters.

One of the few noncivil service groups in state service is represented by the commission's reporters and transcribers, who receive salaries substantially in excess of those for comparable civil service positions.

The amounts appropriated by the Budget Act of 1958 for support of the Public Utilities Commission during 1958-59 were as follows:

General Fund	$2,895,502
Transportation Rate Fund	2,350,540
Total	$5,246,042

The Transportation Rate Fund can be used only in connection with administration and enforcement of laws relating to transportation of property for hire. Its revenues consist of a fee charged all such carriers of one-fourth of one percent of gross operating revenue plus certain other set fees such as those for permits and penalties and income from sales of documents and interest on the surplus.

A summary of the actual transactions of the fund for 1957-58, and the estimated transactions for 1958-59, and 1959-60, according to the latest available estimates, is as follows:

	Actual 1957-58	*Estimated 1958-59*	*Estimated 1959-60*
Surplus at beginning of year	$599,736	$99,868	—$223,039
Revenues:			
Quarterly fees	1,634,107	1,829,000	1,959,000
Application fees	288,120	380,000	400,000
Penalties	16,079	16,000	16,000
Sales of documents and miscellaneous fees	16,288	25,000	25,000
Interest	11,344	---	---
Total revenues	$1,965,938	$2,250,000	$2,400,000
Total resources	$2,565,674	$2,349,868	$2,176,961
Expenditures, including retirement	$2,465,806	$2,572,907	$2,677,109
Surplus at end of year	$99,868	—$223,039	—$500,148

Although the one-fourth of 1 percent transportation rate fund fee has many of the characteristics of a tax, i.e., quarterly returns and payments are required, and has been in effect since 1935, until very recently there has been no program of any kind for verification of the accuracy of the reports, other than as to clerical errors on their face. The commission, however, is now engaged in the starting phases of a verification program through field auditing of the licensees' records.

Study Areas

Some areas for specific study that concern the efficiency and economy of the State are:

1. The assignment of engineering staff where other classifications might be used. This situation is a holdover from the early days of the commission and is no longer necessarily valid, particularly in view of the current shortage of engineers.
2. More adequate enforcement of the revenue collection activities of the Transportation Rate Fund through adequate verification of the reports by field audit or otherwise.
3. The processes by which the commission arrives at and reports its decisions and orders.
4. Establishing a fund similar to the Transportation Rate Fund applicable to the nontransportation utilities, so that the commission might be completely self-supporting.
5. The advisability of curtailing regulatory phases which are not absolutely essential, e.g., aiding utilities in establishing accounting systems, and surveying bus operations for data leading to efficiency. It is no doubt true that strong utilities are in the public interest but the extent to which they should properly be aided by state-paid personnel is questionable. This is particularly true of the utilities not contributing to the rate fund.
6. The absence of a strong executive officer outside of the commission itself. This is contrary to the usual practice wherein members of commissions and boards devote themselves primarily to policy matters.
7. The advisability of having "specialist" examiners. There is a strong possibility of error in having one examiner handle substantially all electric rate cases, for example, due to his being too close to the problems and to the utilities' negotiators, lawyers, rate experts, etc. More objective results might be achieved by rotating examiners.
8. The use of noncivil service reporters and transcribers at considerable cost to the State.

APPENDIX

The statements appearing hereafter were submitted to the committee at its hearing in Sacramento on October 17, 1958. They are as follows:

A. "Necesssity for Establishing Legislative Control Over the Budget and a Suggested Method by Which This Might be Done"—A. Alan Post, Legislative Analyst.

B. Statement of Department of Finance—Robert L. Harkness.

C. "The Problem of Fixed vs. Controllable Expenditures in the California State Budget"—Professor John A. Vieg, Pomona College and Claremont Graduate School.

D. Statement of California Taxpayers' Association—A. O. Lefors.

E. Letter from Roy E. Simpson, State Superintendent of Public Instruction.

APPENDIX A

STATEMENT BY A. ALAN POST, LEGISLATIVE ANALYST, TO ASSEMBLY INTERIM COMMITTEE ON GOVERNMENT ORGANIZATION

SACRAMENTO, October 17, 1958

NECESSITY FOR ESTABLISHING LEGISLATIVE CONTROL OVER THE BUDGET AND A SUGGESTED METHOD BY WHICH THIS MIGHT BE DONE

The State Constitution provides that the Governor of the State shall prepare a budget which contains all proposed expenditures and all estimated revenues of State Government for the next fiscal year and shall present it to the Legislature in each session. To the extent that revenues are not indicated to be sufficient to balance the budget, the Governor is required to recommend additional sources Thus, the State of California has, by constitution, established the doctrine that the Governor is responsible for formulating an all-inclusive financial program for presentation to the Legislature. This concept is in accord with modern concepts of budgeting and was recognized in California as early as 1922. It is therefore strangely inconsistent that the same laws which require that a comprehensive budget shall be prepared also limit substantially the amount which the Governor and the Legislature can effectively act upon each year in the budget bill.

Beyond the point where the Constitution has been amended by vote of the people to fix appropriations or earmark revenues, the Legislature has upon its own initiative preceeded in many ways to tie its own hands. Thus, the device of continuing appropriations, both statutory and constitutional, provides for the fixing of almost $1,343,000,000 out of a total budget of $2 billion. In other words, 67 percent of the total budget is fixed by law.

Any person who is familiar with California State Government expenditures would recognize that there is inherently only a limited amount of flexibility in the State's expenditure program, irrespective of the legal basis for fixed charges. In other words, this inflexibility would exist whether the Legislature had the legal right to adjust expenditures or not. The very nature of the State's programs is such that from the practical standpoint the major portion of these expenditures will be required. The State is probably not going to close the University of California or its state colleges. It is not going to abandon the prison program nor the mental hospitals, nor could it turn back the clock and place the full burden of school support upon the local school districts. The bulk of the State's expenditures are for all practical purposes fixed, but it is this very fact which makes it absolutely essential that there be some element of flexibility in, if not all state expenditure programs, at least a sufficient number that the Governor and the Legislature annually will be placed in the position of being able to carry out their constitutional responsibilities for establishing a politically responsible balance between state income and outgo. The very fact that the effective margin of controllability of costs is inherently narrow emphasizes the necessity for broadening the base of expenditures which are subject to such limited control.

My discussion of this problem and its possible solution can perhaps be presented in the form of three propositions and a factual demonstration of the basis for each of these statements.

The first proposition is that the Legislature does not now have control of the budget through the budget bill. The percentage which the budget bill bears to the total budget is less than 33 percent. Thus, the Legislature has before it each session for review in the budget process only about one-third of the total state budget. Even this budget bill contains many special funds created out of earmarked revenues over which the Legislature has very limited control. Thus, the General Fund portion of the budget bill which is unrestricted as to expenditure amounts to only $452 million or about one-fifth of the total budget.

Let us compare this General Fund expenditure program with the prospective deficit in General Fund revenues. Next year it is estimated that revenues into the General Fund will be $200 to $250 million less than expected outgo. It is obvious that with a General Fund expenditure of approximately $1¼ billion, solvency of the General Fund to the extent of overcoming a deficit of $200 million cannot be achieved through reductions made in the budget bill The General Fund activities which are provided for from appropriations made in the budget bill include such items as $94 million for the University of California; $46.5 million for state colleges; $45 million for prisons and youth authority institutions; $30 million for fiscal affairs including tax collection and accounting; $105 million for mental hygiene facilities; $18 million for the Department of Natural Resources including fire protection.

The continued operation of these essential state activities limits the extent to which the Legislature can balance the budget by using these items, particularly when the major proportion of all budget adjustments in recent years have already been made in these programs by the Legislature through the budget bill. This continuous review and whittling away at excesses has restricted the possibility of substantial further reductions.

The second proposition is that although the Legislature has limited control over the budget through revising continuing statutory appropriations in a general session of the Legislature, as a practical matter the necessity to provide the basic services covered by these appropriations will not permit the Legislature to balance the prospective budget deficit by this means.

The total of statutory continuing appropriations from the General Fund amounts to $250 million for 1958-59. Some of the principal programs which are included in this group are the following:

	Amount	*Percent of total*
Social welfare assistance programs	$182,512,460	73 3
Apportionments for public schools (a d.a.)	42,424,800*	17 0
Contributions to the State Employees Retirement System	23,857,284	9.6

* Major portion represents the effect of the legislative increase of $13 37 over the constitutional provision of $180 per unit of average daily attendance

Here again as in the case of those programs which are provided for out of the budget bill, the Legislature can make adjustments, but the

nature of the expenditures is such that from a practical standpoint there is a relatively limited area of flexibility. If this area of flexibility is to be exploited by the Legislature it is probably necessary that such adjustments in continuing appropriations be co-ordinated with the Legislature's consideration and action on the budget bill; i.e., be separated out and actually included within the budget bill. However, even if these programs were modified to the extent of 20 percent, it would provide only $50 million toward the liquidating of a prospective $200-$250 million General Fund deficit.

The third proposition which I would state is that the Legislature can achieve effective control over the budget only by having at least partial control over essentially all segments of the state budget. The facts are that the budget is 55 percent comprised of subventions, including shared revenues, or a total of $1.1 out of $2 billion. These subventions are made to local government for the purpose of operating what have been determined to be programs of sufficient state interest that state tax sources are used for their support. It is not conceivable that the State Legislature would fail to appropriate for support of most of these functions.

Again as a practical matter, as I will point out in some detail, there is a very practical limit to the extent to which the Legislature could reduce these subventions Most state subventions are made to activities which began as local government responsibilities and which were supported from local tax sources. In due course the magnitude of these expenditures or the nature of the programs were such that a wider tax base than the local property tax was called upon to finance them. For example, local property taxes support slightly more than half of the cost of public school apportionments and yet there is a general feeling that this form of taxation has almost reached the point of saturation. It is inconceivable that the Legislature would approximately double local school taxes by thrusting this burden back upon the school districts. The same thing is true of categorical aids—assistance to the needy blind, aged, and children. There are some programs which the Legislature has taken over from local government on the basis that there is a sufficient statewide interest that the State should assume all or a major portion of the cost of the program.

In our recommendations to the Legislature we have from time to time pointed out numerous areas which we felt justifiably could be reexamined and returned to local support Here again, however, this area of financial adjustment is relatively limited. It is limited in two ways. First, it is limited with respect to the total burden which could be shifted back to local government tax sources, and, second, it is limited by the extent which it would be reasonable for the Legislature in any one year to expect local administrators to adjust their programs to reduced appropriations. After all, programs of school administration and public assistance, for example, cannot be adjusted overnight. Local administrators make their calculations and local boards make their tax programs on the basis of anticipated receipts of state money. It is not practical nor would it be proper to completely dislocate these programs. Little adjustment can be made in teachers' salaries or school costs upon short notice. Little revision can be made in welfare budgets or caseloads within one year.

There is another element of inflexibility in state appropriations which lies within the attitudes and action of the Legislature itself, and there is a reasonable basis for this inflexibility. The Legislature has established so-called formula bases for apportioning out many state subventions These formulas are periodically reviewed by policy and appropriations committees in general sessions of the Legislature and the final product is inevitably the result of compromise and balancing of interests statewide. As a practical matter it is hard to believe that the Legislature would permit these formulas to be revised substantially in the 30-day budget session of the Legislature through the agency of the budget bill. The school apportionment bill is a matter of such extensive debate and legislative consideration that it would be difficult to believe that the Legislature would wish to consider substantial adjustments in the basic formula in a budget session, nor could such changes be legally made in the budget bill.

In summary, there are fundamentally sound reasons for fixed elements in that State's expenditure program, although I personally can make no case for constitutionally fixed charges other than minimum costs of constitutional officers. Whether these fixed charges are the result of tax theory such as fish and game revenues, highway user taxes, etc ; whether they are linked to the dependence which the local administrators must place on the receipt of state subventions; or whether it is the reservation on the part of the Legislature of certain policy matters for consideration in a policy or general session of the Legislature, as a practical matter these fixed elements of budgets will probably remain On the other hand there are also fundamentally sound reasons for variable elements in the budget It is apparent that the financial control which is by law entrusted to the Legislature cannot be achieved from the existing system of having major expenditure programs fixed by constitution or by statute with only a segment of the program controllable. The present system is obviously inadequate from a fiscal standpoint However, is there any basis upon which this fundamental conflict can be resolved?

I would like to suggest an approach which may serve this purpose. By way of introduction I might say that one's first reaction would probably be to put all appropriations in the budget bill. Even if this were possible at this time, it might not be very meaningful since a revision of the basis for the allocation of the more important subvention programs probably could not be effected in the budget bill.

Another approach might be much more effective. This would be to separate out those elements of a program which could reasonably be varied from time to time as a matter of fiscal policy, and include these elements in the budget bill. It would be desirable that these elements be placed under the budget responsibility of the Governor as well as under the appropriation control of the Legislature. It is obvious that the separation out of the variable elements of cost in major fixed cost programs will require very careful study and the amending of many statutes as well as amendments to the Constitution. Thus, the minimum *fixed* elements might be provided for by statute or constitution, leaving well defined variable areas for the Legislature to adjust annually in the budget bill on the basis of current fiscal policy. For example, in

the case of school apportionments, it will require initially a sound factual basis for differentiating between minimum salary and operating costs of schools, on the one hand, and certain program costs which as a matter of policy might be dispensed with or reduced. Thus, it should be possible for continuing appropriations, either constitutional or statutory, to provide $180 per pupil to school districts for allocation in accordance with statutory provisions. The $13.37 per pupil which is appropriated by statute above the $180 constitutional requirement could be appropriated directly out of the General Fund for specified programs. Under present law any money appropriated into the School Fund must be allocated out, even though it is in excess of the formula (and thus is redistributed as surplus). The direct appropriation in the budget bill for expenditure in accordance with certain Education Code sections would presumably avoid this problem. The county school service fund now gets $4.66 per child by formula. This is an example of a service which might well be made a variable appropriation. Pupil transportation, driver education, and education of exceptional pupils are matters which might be handled in the budget bill as separate appropriations from the General Fund.

The Legislature in 1957 passed Assembly Bill No. 3045 which raised the apportionment from $180 to $193.37 per pupil in average daily attendance. This increase and the dollar difference based on the 1957-58 a.d.a. figures is shown on the following table.

COMPOSITION OF $180 AND $193.37 A D.A. APPORTIONMENTS
2,750,763—1957-58 A D.A.

Purpose	*$180 Law*	*$193.37 Law*	*Difference*	*Dollar difference based on 57-58 a.d.a.*
1. County school service fund—direct services	$0 94	$1.66	$0.72	$1,980,549
2. County school service fund—other purposes	3.57	3.00	—.57	—1,567,935
3. Pupil transportation	3 20	4.00	.80	2,200,610
4. Special education	3.70	5 15	1.45	3,988,606
5. Growth	12.00	12.52	.52	1,430,397
6. Basic and equalization	156.59	167.04	10.45	28,745,473
Total	$180 00	$193.37	$13 37	$36,777,700

In 1957-58, $10,745,754 was apportioned to local districts from the State School Fund for the transportation of pupils. In this same year $14,166,429 was apportioned to local districts for the education of exceptional minors

Under an austere program, the Legislature could re-evaluate the responsibility of the State in relationship to these two programs.

Questions which might be asked are as follows:

1. Is it the responsibility of the State to provide transportation for pupils? In many metropolitan areas the transportation problem is as acute as the small district, yet transportation is not provided.

2. Should the State finance the excess cost of the exceptional child, or should the State provide only that amount necessary to support the normal foundation program?

Another program which might be separated out and dealt with on a direct budget bill appropriation basis is adult education.

Section 9700.1 of the Education Code defines an adult as any person who has attained age 21 on or before September 1st or February 1st of the semester for which he has enrolled and who has enrolled in less than 10 class hours for junior college districts or 10 periods of not less than 40 minutes each per week for high schools.

The amount of $125 for each unit of average daily attendance is apportioned to each district having such adult attendance One unit of adult average daily attendance represents 525 hours of attendance. In addition to basic aid, districts that secure equalization aid for attendance in high schools and junior colleges receive equalization aid in the same amount for attendance of adults but not to exceed $95 for each unit of average daily attendance Thus, the maximum possible State apportionment for each unit of average daily attendance is $220. Since adults are enrolled on a part-time basis, each unit of average daily attendance does not normally represent one person's attendance for the year, but rather the attendance of from 12 to 15 students.

In 1956-57, 955,175 adults were enrolled in adult education classes. This number of enrollments resulted in 66,636 units of average daily attendance for 1957-58 apportionment purposes or a $9,588,801 expenditure from the State School Fund for Adult Education.

The 1957-58 fall enrollment in the California adult education program indicates that 7.1 percent of the total enrollment is in the class for "Citizenship and English for the Foreign Born " Academic subjects; business education; and trade, industrial and shop accounted for an additional 50.7 percent. The remaining 42.2 percent were in various classes offered for adults.

In determining the absolute minimum in an educational program, it would be our suggestion that the citizenship and English for the Foreign Born be considered an essential and thus supported by the State However, we would question the need for state support of these other adult education courses. The law now provides that a district may establish fees for adult education courses offered

If the 7 1 percent figure were applied to the 66,636 units of a d.a for 1957-58 and correspondingly to the $9,588,801 expenditure for adult education, a savings to the State of $8,907,996 would result The remaining cost of the adult education program now paid by the State would then be picked up through fees paid by the participants

In the area of categorical aids—the state welfare program—there is at least one basis upon which costs might be separated and a portion financed by continuing statutes and a controllable part placed in the Budget Bill.

As a proposal to place variable or controllable appropriations in the Budget Bill, the following is suggested:

1. Make all welfare program appropriations as closed-end Budget Act items, instead of the present open-end, continuous appropriations method.

2. The closed-end appropriation would be based on a specified minimum budget which in turn would be based on specified factors of a cost-of-living index.

In order that the Legislature's control through the budget bill would be effective, it would also be necessary to amend existing laws to: (1) remove the "escalator" clauses which provide automatic state participation or automatic increases to recipients due to federal changes; (2) limit the authority of the Social Welfare Board to increase grants by the application of outside income to special needs. In effect, this provides that the grant payment shall be based on the difference between budgeted need and "outside" income.

The two major areas of education and welfare subventions have been used here as examples. There are numerous other smaller areas and funds which could be unfrozen by applying the same principles. Extensive revision of laws would be necessary and careful analysis of the program and cost elements of state activities would be required preliminary to such revision. A major interim study and General Session program of statutory revision would appear to be the practical way in which such a program might be effected if the Legislature agreed that as a matter of policy it wished to employ this means for increasing its control over the fiscal affairs of State Government.

APPENDIX B

STATEMENT BY ROBERT L. HARKNESS, STATE DEPARTMENT OF FINANCE, TO ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL ORGANIZATION

October 17, 1958

The Department of Finance appreciates the opportunity to appear before this committee to discuss the subject of fixed and controllable expenditures of State Government. As the budget-making agency, we have, of course, had long experience with the problems generated by the difference in degree of control which may be exercised by a Governor in making his expenditure recommendations. Many items are subject to direct control and minute determination in the preparation of the Budget Bill. Others can be changed only through amendments to the statutes, while still others can be altered only through the time-consuming, expensive and uncertain process of amending the State Constitution. In the current fiscal year, roughly one-third of the total expenditure budget represents items subject, theoretically at least, to direct and immediate control, somewhat more than one-third is fixed by statute and slightly less than one-third comprises expenditures which are mandatory under provisions of the Constitution. The ratio of controllable costs has changed very little over the years. In 1931, when this subject first emerged into the spotlight, Governor Rolph pointed out that only 31 percent of the budget came under his direct control. In 1941, Governor Olson pointed to the 30 percent controllable segment of his budget, while in 1951 the ratio was 33 percent.

During recent years the Department of Finance has tended to de-emphasize this concept. There are several reasons for our change in attitude. First, we have felt that the terms are inaccurate and misleading. Many of our so-called controllable costs are in fact largely

fixed by circumstances beyond the control of the Governor—the number of mental patients, the number of students seeking higher education and contributions required for teachers' retirement, for example. Any implication that these and other similar items are controllable and therefore can be sharply reduced or completely eliminated gives a false impression of our principal budget problems.

Second, on occasion the term "fixed charge" has afforded special interest groups a convenient excuse for resisting thorough analysis and careful determination of need in certain expenditure areas

In the third place, we believe that certain expenditures represent contractual or moral obligations of the State. Individuals and other governmental agencies must have some guarantee of the State's intent to meet its obligations in these fields. Debt service is, of course, the outstanding example, but the principle applies as well to school support, pension payments and social security. The school district which by the middle of June did not know what support level to expect from the State would be severely handicapped in contracting with its teachers and in preparing its operating budget. The retired employee who suffered a pension cut because of a reduction in retirement funds would have a legitimate complaint

Conversely, many of our present fixed charges should be made completely controllable. Other than as a safeguard against future possible reductions, there is no sound reason for many of our present fixed expenditures Included in this group are the several items of support of agricultural fairs, wildlife conservation, soil conservation, small craft harbors, dairy industry advisory board, forestry research, and certain fixed appropriations of the University of California All of these could more logically be included in the Budget Bill and considered in the light of total expenditure requirements.

Similarly, some agencies have been given a vested interest in all, or a designated share, of revenues from specific sources. For example, 14 agencies or activities receive a statutory share of horse racing revenue, either as designated amounts or as a percentage of the total. There are five statutory earmarkings of oil and mineral royalty receipts. There is no reason to assume that the Legislature would deal more harshly with the beaches and parks than it does with forestry; more severely with the student driver training program than it does with textbooks; more sternly with the veterans' dependents than with veterans; or that it would be more strict with the agriculture departments of our state colleges than the home economics, science or journalism departments. Yet beaches and parks, driver training, veterans' dependent education and the agricultural courses at two of our colleges are given a claim upon certain horse racing revenues; the other activities mentioned must take potluck along with other controllable expenditures.

In line with these beliefs, the Department of Finance offers the following suggestions for consideration by this committee in its deliberation on fixed and controllable expenditures.

1. Elimination of constitutional fixed charges and the inclusion of these items in the statutes. This would obviate the delay inherent in securing an amendment to the Constitution and would be a

less expensive method of aligning appropriations with current conditions. Of necessity, expenditures for the servicing of certain bond issues would be excluded from this proposal.

2. Tighter budgeting of administrative expense related to the administration of a fixed charge, such as highway operation Although real progress has been made, we still have a double standard with regard to certain expense. The very existence of special funds frequently creates a vested interest—a tendency to demand special treatment in scheduling expenditures which is denied agencies supported entirely from the General Fund.
3. Consideration of fixed charges in two categories: those involving contractual or moral obligations, and charges fixed by statute chiefly as a means of avoiding annual review and appropriations in the budget bill.

The first of these—those in which there is a contractual or moral obligation—should be least subject to reduction in times of financial stress and should be reduced only after ample notice to the individuals and agencies involved. However, there should be continuous investigation of the reasons for such expenditures and the formulas which determine the annual amounts.

Expenditures in the second category—those in which the statutory provision is merely an insurance against annual review—should be made fully controllable and included in the Budget Bill. Similarly, action should be taken to repeal provisions of law which dedicate specified shares of certain general revenues to specific purposes. It would be sounder budgeting and more effective fiscal management to place all of this revenue in the General Fund and to appropriate for the various purposes on the basis of demonstrated need, taking into consideration the State's aggregate revenue resources and its total expenditure requirements.

Thus, in essence, we are suggesting that this problem involves three types of fixed expense. First, certain basic charges, such as debt service and school support, which are contractual or moral obligations of the State. Second, a number of fixed appropriations should be made fully controllable. Several examples have been noted above. Third, the earmarking of certain general revenues for specific purposes should be carefully reviewed. In most instances the revenue should be deposited in the General Fund and the appropriation should be made through the Budget Bill in the same manner as are the great majority of other state cost items.

APPENDIX C

THE PROBLEM OF FIXED VS. CONTROLLABLE EXPENDITURES IN THE CALIFORNIA STATE BUDGET

Memorandum by John A. Vieg * (speaking only for himself) for appearance before Legislative Interim Committee on Government Organization, Sacramento, Friday, October 17, 1958.

* Professor of Government, Pomona College and Claremont Graduate School, serving this year as Visiting Legislative Research Professor, University of California, Berkeley.

No one principle, however profound, can resolve all the questions involved in a legislature's achieving sound control over state expenditures.

Yet there is one principle which is so basic that it cannot be ignored without opening the door to trouble All expenditures should be comprehended in a single budget based on a single fiscal year and made from a single fund including all the revenues of the government.

If there is anything worthy of being called the pure theory of budgeting this is it—and it makes good sense. It may not always be possible, indeed it may sometimes be unwise, literally to follow this theory in practice. The presumption however should always be in favor of controllable rather than fixed expenditures and it should be so strong that departures are made only for the best of reasons and with everybody properly alerted and informed.

The logic behind this theory, as Professor Malcolm M. Davisson has suggested (see his essay on "Financing State Government" in the volume of background papers prepared for the 1956 Stanford-American Assembly conference on California State Government: Its Tasks and Organization), is that without such a pattern of fiscal organization and procedure there is no chance for the members of a legislature to spend the people's money to their maximum social advantage.

Technically stated, the problem is that of first trying to make sure that the social benefit derived from a governmental expenditure will be at least as great as the aggregate personal benefit which the individual taxpayers would have derived from the private use of these same funds and then achieving equivalence among final expenditures made from public funds. What this last means is that public expenditures should be so allocated that additional satisfactions derived from the final unit or dollar of expenditure on each governmental function yields equal satisfaction.

Only through complete controllability can a legislature reasonably be expected to achieve such equivalence with respect to final expenditures from year to year, for the ideal of complete optimization with respect to the use of resources cannot be attained merely through successive processes of suboptimization. Clearly it is easier to get maximum value for each dollar spent if every dollar's use can be considered in relation to that of every other dollar than if comparisons can be made only within the rigid limits of separate funds.

Legal-procedural forms of fixed allocations or assignments:

Though the general principle outlined above is widely understood and broadly accepted, by the year 1954 Delaware was the only state in the Union formally observing it all across the board. Technically at least it maintained 100 percent controllability. Rhode Island (6.1 percent) and New Jersey (7.3 percent) were the only other states with fixed allocations under 10 percent, though New York, in the next most favorable position, was then holding its assignments to 12.6 percent while California's stood at 42.4 percent. (See The Tax Foundation, Inc. *Earmarked State Taxes,* November, 1955.) The legal-procedural forms used are either constitutional amendments or legislative stipulations, sometimes adopted in the ordinary way, sometimes via the initiative process.

Types of assignment: As James W. Martin wrote in *The Kentucky State Budget System* (University of Kentucky Press, 1945) "The variations in assignment devices are almost innumerable, and depend largely upon the purpose of the assignment and the general circumstances that surround it." The main types, however, are these:

1. Commitment of an absolute amount, that is, a fixed number of dollars, to a particular agency or service annually.

2. Allocation to an activity of a fixed amount per capita, per county, per district or per some other unit.

3. Assignment of the whole or some fixed percentage of a certain source of revenue—tax, fee, or service charge—to a particular function. While any of these devices can gum up the works of the budgetary process, probably those falling under categories 2 and 3 cause the most trouble.

Dangers and disadvantages in fixed allocations: The adverse effects stemming from this practice are at least sixfold: (See *State Fund Structure,* a report of the Legislative Council to the Colorado General Assembly, Revised Edition, 1956.)

1 It discouraged legislative and civic interest and understanding because of the complexities thus engendered.

2. Agencies supported by earmarked revenues show less incentive to increase their operating efficiency because their income is assured—and sometimes overassured because of deliberate underestimation of the revenues they are destined to receive.

3. Expenditures from earmarked funds are not subject to the same measure of budget control as others are.

4. There is no necessary relationship or correspondence between the yield of a particular tax and the cost of performing the service to which it is dedicated.

5 It may place the State in the embarrassing position of having one fund issuing anticipation warrants while others contain substantial surpluses.

6. It may greatly overemphasize an individual activity or agency by providing it with funds far beyond its needs or desserts.

7. Finally, to add a seventh, it may tend to encourage the fallacious idea that there is an easy escape for the legislator and the citizen from the painful necessity of thinking.

Advantages from earmarking and the creation of special funds: It would be naive, however, to try to argue that there are no countervailing advantages attending these practices.

1. For the Members of the Legislature it means that some issues are resolved, at least for a while, and that consequently they have more time to think about other questions which may be calling for their attention.

2. For the state administrative agencies in question it means that they have a more or less stable revenue base (which should permit of better planning).

3. For the localities—cities, counties, and especially school districts—it means that they have the advantage of a firmer fiscal base (which should enable them to budget more wisely).

4. For the interest groups thus mollified—and some of them have objectives wholly congenial with the public interest—it means that they can cease and desist for a while from their labors of agitation and pressure.

On net balance then, what harm results from the practice? Perhaps no very serious harm results from earmarking *if* it is done with discretion and during periods of expansion and prosperity. This explains why California has been able to fix as many expenditures as are frozen in our present state budget and still avoid serious trouble.

Now however, with our reserves ebbing away, we are entering upon a period fraught with difficulty and even danger such that we ought to strive with might and main for a greater measure of flexibility in legislative appropriations.

Let us ask ourselves honestly what would happen if we abolished all special funds and discontinued the practice of fixed allocations altogether?

First: There is no reason to believe the heavens would fall. Since there is great intrinsic merit in, and great public support for, many if not all of the functions or services now financed in whole or in part from such allocations, most of them would receive appropriations quite in proportion to those they receive now. And those that received less would almost certainly be those deserving less.

Second: There would soon be agitation and pressure for a renewal of the fixed allocations.

What then are the alternatives?

1. Hold the line where we are now, resolutely refusing to do any more earmarking.

2. Allow earmarking for (a) retirement funds, (b) highways, and (c) schools to continue but discontinue the practice otherwise.

3. Discontinue earmarking per se but let the Legislature adopt for its own guidance one of the following rules:

(a) No expenditure will be reduced in any one year more than 5 or 10 percent below the amount allowed for the preceding year.
(b) No expenditure will be reduced excepting on the basis of a special majority, e.g. $\frac{3}{5}$ or $\frac{2}{3}$.
(c) Combination of (a) and (b).
(d) No expenditure will be reduced excepting with the approval of a majority of a select committee (such as the Joint Legislative Budget Committee) having the aid of a competent staff.

NOTE: Whatever we do let us not waste our time making bogus improvements like abolishing all special funds but setting up restricted accounts in the General Fund.

APPENDIX D

STATEMENT OF A. O. LEFORS, DIRECTOR, DEPARTMENT OF STATE ACTIVITIES, CALIFORNIA TAXPAYERS' ASSOCIATION, BEFORE THE ASSEMBLY INTERIM COMMITTEE ON GOVERNMENT ORGANIZATION, SACRAMENTO, CALIFORNIA

CALIFORNIA TAXPAYERS' ASSOCIATION
LOS ANGELES 14, October 17, 1958.

Mr. Chairman and Gentlemen:

California is today facing a serious financial problem

The 1959 Legislature will have to face a General Fund deficit of more than $200,000,000 and this may run as high as $300,000,000 according to some estimates.

The State's General Fund, which is the accounting means by which most of the State's programs are provided, totaling $1,248,413,148, represents about 62 percent of the total appropriations made for the 1958-59 Fiscal Year.

The financial condition of the State may be likened to an automobile which is not functioning properly. Most of the parts may work well and smoothly, while others are seriously out of order Unfortunately, these malfunctioning parts affect the efficiency of the entire automobile so that it cannot perform properly the service for which it was designed.

Fixed charges account for $1,343,118,073 of the total authorized expenditures of $2,001,203,648 for 1958-59. This is 67 percent of the total budget This means that under present budgetary practices, you, the Legislature, have complete control over only about one-third of the expenditures authorized by the State. The remaining two-thirds are the so-called "fixed charges" over which you exercise less control.

Because these "fixed" expenditures are not under legislative control —and partly because of appropriations having been made without consideration for finding the necessary funds with which to pay for them —the State's General Fund is, fiscally speaking, suffering from vapor lock.

Like the good and bad parts in the automobile of which we spoke earlier, some of the funds in the State's fiscal system are operating very smoothly, having substantial surpluses, because of the safeguards placed around them, but the General Fund—like the fuel pump of the car—is not pumping gas into the carburetor. We are "broke" in one very important fund but "rich" in other funds because of past legislation.

In the past, there may have been justification for the actions taken which "earmarked" funds for special purposes. This is a different day, however, and we, the taxpayers of California, believe that because of the heavy tax burden which we are carrying for federal, state, and local governments, every means possible should be taken to budget on the basis of need and not on the basis of a formula adopted some time ago, regardless of whether or not the money was actually needed.

There may be programs which will be best provided for on a "fixed charge" basis but there are others which cannot, in our opinon, be justified. An example of this latter type is the allocation for local fairs.

Included in "fixed charges" are two types of appropriations:

(1) Those required by constitutional provisions.
(2) Those statutory enactments which set up formulas for continuing activities.

It is recognized that the Legislature has "floors" below which it may not be able to control expenditures but, at the same time, programs undertaken following statutory enactments are subject to your further legislative review and action.

Included among these fixed charges are such programs as:

(1) Support of the public schools.
(2) Aid to the needy.
(3) Allocations to the State Department of Public Works for the Division of Highways.
(4) Allotments to cities and counties of shared revenues.
(5) Payment of debt services of the State.
(6) Payments to counties and districts for fairs.

It is our belief that in the State's present fiscal situation, it is wise for the legislative and administrative branches of State Government to examine carefully each of its functions and programs so that the unnecessary activities can be eliminated; so that bad fiscal practices can be discontinued; and so that the most efficient and economical governmental services can be provided.

In addition to the suggested review of the "fixed charges" in the budget, we would also recommend that the Legislature look into the various statutory requirements which may be outdated and unnecessary under present conditions. For example, the requirement of elevator inspections by the Department of Industrial Relations may be completely out of date because of improvements made in elevator installations and operations during the past few years. It may be that the inspections carried out regularly by the manufacturers are sufficient for this purpose. At any rate, it is a matter deserving of attention.

Undoubtedly, there are many other statutory items where recent developments and improvements no longer require state participation in inspection or other activity. The review of such activities could be carried out by your Legislative Analyst or committees specially appointed for this purpose.

It is the firm belief of our association that failure to consider all of the parts of the State's fiscal system will only lead to continuance of the financial problems to be faced by the next Legislature. We strongly urge that your committee take the beginning steps to bring about the necessary changes in what is now a serious fiscal situation.

California Taxpayers' Association also believes that the Legislature should have a greater degree of control over appropriations.

We respectfully urge your committee to undertake a careful study of all expenditure programs to the end that recommendations may be made to the Legislature proposing changes to achieve that control.

The citizens of this State cannot expect that you, the members of the Legislature, can correct bad practices in government unless you are given both the responsibility and the authority to propose and carry out corrective action.

You, gentlemen, have the power to order the necessary repairs on the "automobile"—the State. "Grinding the valves," when more work is badly needed, will give only temporary relief. Your work order for repairs must be complete if the vehicle is to be restored to its greatest operating efficiency. At this time a "major overhaul" is indicated.

Thank you for this opportunity to appear before you today and may we assure you of our continuing desire to be helpful to you in the problems you must face.

APPENDIX E

DEPARTMENT OF EDUCATION,
SACRAMENTO 14, October 13, 1958

HONORABLE CASPAR W. WEINBERGER, *Chairman,*
Assembly Interim Committee on Governmental Organization
Room 4017, State Capitol, Sacramento 14, California

DEAR ASSEMBLYMAN WEINBERGER: This will acknowledge your recent letter relating to the meeting of the Assembly Interim Committee on Governmental Organization in Sacramento on October 17th and 18th, in which you requested that our department appear before the committee and present our views on "the broad subject of fixed vs. controllable expenditures."

Unfortunately both myself and those members of my administrative staff who normally appear before legislative committees have been scheduled for several months to participate in the conference of the California School Boards' Association in San Diego on those dates. This will preclude, regretably, our sending a representative to testify before your committee. We do, however, appreciate your solicitation of our views and I am taking the the liberty of expressing them to you and your colleagues on the committee by letter.

Your committee will be giving its attention to the desirability of keeping present constitutional and statutory provisions or whether or not it would be more desirable to subject to legislative review and action a greater portion of the State budget than is now subject to its absolute decision.

In respect to the problem before your committee it is appropriate that the Department of Education direct its comments to Section 6 of Article IX of the Constitution of California which provides for guaranteed local assistance to school districts for the support of the public school system to the extent of $180 per unit of average daily attendance. To this constitutional guarantee the Legislature has added an additional $13.37 for the biennium, beginning July 1, 1957.

It is the strong conviction of the Department of Education that this provision should be retained in the Constitution. It is the traditional way in which the electorate of California have guaranteed State support for the program of education on at least four different occasions, *i e.* 1920, 1944, 1946, and 1952. It is not a new concept or device but has

been used over the past 50 years. The minimum constitutional guarantee placed in the Constitution by the people would seem to express their views relative to the importance of education together with the necessity for its adequate financial support.

Education is a function of the State but is administered and operated locally within the provisions of the Constitution, statutes, and applicable administrative regulations. Local governing boards have been authorized to determine policy relating to administration and operation and are charged with the formulation of the budget under which the schools of the district are to be operated. The guarantee of State support now contained in the Constitution has reinforced this local control which is essential to an educational program and has allowed the continuance and improvement of education in California. We could conceive that annual determination by the Legislature of local assistance for schools could remove from local boards many determinations which should be theirs, such as budget making, staffing patterns, long-term planning, if local control is to be maintained and strengthened.

The fact that the public school system in California is administered and operated by local governing boards rather than by a department of the State government directly responsible to the Legislature is another reason why the people of the State should have a major part in determining the extent of support from State funds.

However, in fairness to all concerned, it should be pointed out that the Legislature by statute has in each year during the past 10 provided for local assistance in addition to the constitutional minimum. The Constitution provided in 1947-48 that not less than $120 per unit of A.D A. of the previous year be appropriated for public school support. The Constitution was amended in 1952, and required, beginning in 1953-54, that not less than $180 per A.D.A. of the previous year be appropriated for public school support. No change has been made in the constitutional provision since 1952. However, in each year since 1947-48, money in addition to the minimum guarantee has been provided by statute. The table following shows for each of the years listed the total amount of the A.D A. of the previous year and the total dollars provided by constitutional mandate and by statute, respectively, thus indicating a measure of control by the Legislature on the local assistance of the State budget:

AMOUNTS PER UNIT OF AVERAGE DAILY ATTENDANCE OF THE PREVIOUS YEAR AND TOTAL AMOUNTS REQUIRED BY CONSTITUTION AND PROVIDED BY STATUTE IN THE STATE SCHOOL FUND—1947-48 TO 1957-58

	Amount per ADA				*Total Amount*	
Year	*Total*	*Constitution*	*Statute*	*Total*	*Constitution*	*Statute*
1947-48	$121.03	$120	$1.03	$173,521,609	$172,038,600	$1,483,009
1948-49	122.15	120	2.15	185,787,370	182,523,720	3,263,650
1949-50	122.25	120	2.25	199,027,611	194,021,640	5,005,971
1950-51	125.27	120	5.27	214,643,777	206,192,040	8,451,737
1951-52	134.89	120	14.89	240,598,619	214,036,440	26,562,179
1952-53	147.33	120	27.33	280,663,119	228,591,120	52,171,999
1953-54	180.19	180	.19	367,073,438	366,690,420	383,018
1954-55	180 32	180	.32	398,210,949	397,511,280	699,669
1955-56	180.47	180	.47	429,727,134	428,598,720	1,128,414
1956-57	180.60	180	.60	460,995,369	459,392,040	1,603,329
1957-58	194.22	180	14.22	534,251,328	495,137,340	39,113,988

California holds an enviable position among the other states of the Union, because of the extent of state school support provided The guarantee of the major portion of this support by constitutional provision has produced fiscal stability, made advanced planning possible, and has resulted in improved educational programs. It has further made possible the effective administration of programs which have been authorized and mandated by the Legislature.

The Department of Education fully recognizes the extent of the costs to the State to provide local assistance to schools Furthermore, it realizes that these costs will increase with the rapid increase in school enrollments. It is our view, however, that if the present program is going to continue, and needed improvements made, the major portion of local assistance should be guaranteed through constitutional provision. We feel that this also is the view of the California electorate which by substantial majorities in 1920, 1944, 1946, and 1952 voted this safeguard for California's public education into our commonwealth's Constitution.

Again, may I express my appreciation for the opportunity of presenting these views to you and your committee. Please feel free to request our assistance if we may be of future help to your committee.

Sincerely yours,
ROY E. SIMPSON

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REPORT OF THE SUBCOMMITTEE ON BEACHES AND PARKS

A Subcommittee of the

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 215, 1957

Report Prepared by

PACIFIC PLANNING AND RESEARCH

SAMUEL E. WOOD

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March, 1959

Published by the

ASSEMBLY

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COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
SACRAMENTO, March 1, 1959

HON. RALPH M. BROWN
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento

The full Committee on Conservation, Planning, and Public Works, under the chairmanship of Francis C. Lindsay, has followed hearings and investigations of the Subcommittee on Beaches and Parks with great interest and concern. In fact, a majority of the full committee has attended one or more of these critical hearings.

The legislation submitted with this report for the consideration of the Assembly is the result of six years of investigation. This legislation, moreover, meets the standards of accepted administrative principles and is in such form as not to hinder the final reorganization of the recreation function. It is my belief that the recommendations of this report are minimum, necessary reforms which, if followed by the Legislature, will result in important advances in our recreation program so necessary to serve the needs of the people of California.

Respectfully submitted,

THOMAS M. REES, Vice Chairman
Assembly Interim Committee on
Conservation, Planning, and Public Works

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, March 1, 1959

HON. THOMAS M. REES, *Vice Chairman*
Conservation, Planning, and Public Works
California State Assembly, Sacramento

DEAR SIR: This report of the Assembly Subcommittee on Beaches and Parks, submitted pursuant to House Resolution No. 215, contains findings and recommendations, and the substantiating material on which these are based.

Our investigation of acquisition policy and processes of the State Park Commission and the division began in 1955 and were reviewed in our report of March 1, 1957. During the past interim the subcommittee has continued its investigation of these matters by holding four hearings where all testimony was taken under oath and where all assistance available to the legislative arm in critical situations was utilized. Thus, the subcommittee requested and received the support of the Legislative Counsel's Office in the preparation and conduct of the hearings. It requested and received detailed reports from the Legislative Analyst and from the Auditor General involving the acquisition processes of the division and the progress that has been made in the purchase and development of park areas. It is felt by our committee that these matters are of sufficient statewide importance to be included in the appendix of this report.

These investigations and the testimony presented to the committee resulted in the inescapable conclusion that the major cause of delay in the acquisition program resides in the policies of the Park Commission. The work of the subcommittee, in the interim ending 1957, demonstrated that major difficulties in the acquisition processes were based on commission policies. The subcommittee recommended to the commission and the division that these policies be adjusted realistically to meet the crash purchase program the division has been involved in for the last three years The investigations during this last interim, however, indicate that these policies and processes have not been changed appreciably; consequently this report contains legislation that limits the commission to an advisory function in the department and integrates fully the division, the chief, and the commission into the departmental structure.

The report further recommends that the entire acquisition program of all state agencies other than the Division of Highways be transferred to the Department of Finance The evidence we have received and the investigations we have conducted show that action programs are hindered by property acquisition. Moreover, property acquisition programs presently distributed among the various action agencies of the State can be expected to increase with population growth. The State needs a uniform policy in this activity. The Department of Finance

with its long concern for the protection of the State of California is the appropriate agency to handle this activity. It would be indeed remiss of me if I did not emphasize the devotion of this subcommittee to its public duty. I want particularly to commend Assemblywoman Pauline Davis for her interest in this matter and for chairing a special unit of the subcommittee which carried on the important hearings on acquisition, policies and processes of November 24 and 25, 1958.

It is our recommendation that the legislation submitted with this report be adopted and that the matter of the full consolidation of the recreation function be studied carefully during the interim by an appropriate subcommittee of the Assembly so that the Legislature in 1961 will be in a position to consider this question.

Respectfully submitted,

Subcommittee on Beaches and Parks

JESSE M. UNRUH,
Chairman
PAULINE L. DAVIS,
Chairman, Special Unit
FRANK P. BELLOTTI
JACK SCHRADE

BRUCE ALLEN
DON A. ALLEN, SR.
JOHN L. E. COLLIER
ALLEN MILLER
BRUCE SUMNER
THOMAS M. REES

FINDINGS

A. With a present estimated population of 15 million, the state growth in approximately one hundred years is expected to reach about 45 million people By 1970, projections indicate that growth will equal about one-half this figure. A combination of higher incomes, more leisure, and improved transportation will increase the mobility of the population and its ability to enjoy recreation activities. The strain against existing recreation sources in the State is indicated in the fact that visitor day use in the national forests in California has more than doubled since 1941, when recreation use was equivalent to two days per state resident per year. Forecasts indicate that recreation use will increase at least 10 visitor days per person when the population of the State reaches 45 million.

B. In the face of present and anticipated strain on recreation resources, state responsibility for the planning and administration of recreation areas is divided among 13 agencies and affected by at least six federal agencies with a myriad of vitally concerned cities, counties, and special districts No single state agency is clearly authorized or staffed to accomplish the multipurpose recreation planning, construction, and administration desired by the tourists and residents of the State.

C. The California Commission of Beaches and Parks and its division, in a position to assume the recreation responsibility through present authorizations, are placed astride both policy and action programs affecting recreation in the State of California. These authorizations of the commission do not clearly establish state policy and are contrary to the most elementary principles of administrative organization.

1. Present code provisions make it impossible to establish clearly the basic responsibility and authority of the Division of Beaches and Parks for the administration of state parks. The responsibility of the Department of Natural Resources, through the commission, apparently has control of the system of beaches and parks, but the commission is the state agency charged with the administration and supervision of the state park system, and while it functions within the Department of Natural Resources it is not responsible, either in terms of policy or administration, to the director of the department. This confusion of authority and responsibility has caused defective administrative practices which result in inefficiency, low morale, and high cost to the people of California.

2. The acquisition and development programs under appropriations of 1956, 57 and 58 are stalemated by long-held policies of the commission regarding extended negotiations and a refusal to utilize condemnation procedure while present costs of acquisition and development are pricing designated areas beyond the financial reach of the people. The refusal of the commission during the past six years to change policies in the face of legislative recommendations, indicates its inability to direct an expedited land purchase and development program.

3. The development of a balanced recreation program in connection with park areas to meet modern day recreation demands of the people of California is contrary to present policies of the commission.

4. Neither the budget submittals of the Division of Beaches and Parks nor legislative appropriation for specific park acquisition and development have been preceded by proper site development plans to determine the area to be purchased and the costs of development, with the resulting consequence that estimated price of purchase and development submitted for legislative consideration is far exceeded by actual costs. This failure to submit a true picture to the Legislature based on feasibility type studies has prevented that branch from adequately judging among projects competing for available funds. In the absence of a staff available for its own planning and costing of these projects, the state policy on park purchase and recreation development is beyond the reach of the legislative branch.

5. Failure to plan in consultation with local agencies and delay in acquisition have resulted in conflicts between local agencies and the commission.

D. The importance of bodies of water for normal water sports, general recreation, and balanced public-private recreational facilities is well documented in the reports of this subcommittee. In addition to creating a public recreational resource, a reservoir area becomes attractive for permanent summer homes and service facilities. The number and location of these facilities and the development of a balanced public-private resource can be determined by site planning studies at the time engineering and economic investigation are accomplished for the project. The strengthening of the tax base that will result from such balanced land use around reservoir areas will offset the removal of private lands from the tax rolls in public development programs.

No agency in State Government is now responsible to assure that recreation planning is a part of the developmental plans for all reservoirs, public and private, in the State. It is not the finding of the subcommittee that a single state agency or state agencies should be given the responsibility of recreation planning in conjunction with all water programs, but it is the conclusion of the committee that some state agency should co-ordinate such planning with the other public and private agencies to assure that this resource not be neglected. Such planning on the part of other public agencies and privately owned public utilities has been neglected because of legislative failure to authorize the expense of planning and administering the recreation resources as a legitimate function of the public agency or as a legal charge in the determination of rates for water and power.

RECOMMENDATIONS

A. Present studies of the California Outdoor Recreation Plan Committee must be maintained by adequate legislative support and appropriations in order that the report be produced on schedule. This report will furnish the Legislature and the State with projections of recreation demand by interest, a clearer definition of state responsibility in the park and recreation area, and an inventory of sources available to meet pyramiding recreation requirements.

B. Additional study is required by an appropriate legislative committee for full examination of the park and recreation function, its level and location in state service, and its proper organization in order to satisfy the present and projected park and recreation requirements of the people of California.

C. Before the report and recommendations of paragraph "B" are completed however, and prior to the final report of the California Outdoor Recreation Plan Committee, this subcommittee supports Assembly Bills Nos. 85 and 720, enclosed with this report, which will limit the Commission of Beaches and Parks to an advisory position and concentrate full administrative responsibility for all of its functions in the Director of the Department of Natural Resources.

The legislative sections of this bill calling for submission to the Legislature of site development plans and economic feasibility studies prior to budget requests for purchase and developmental funds will give the Legislature a true picture of costs of acquisition and development, the basis to choose among competing projects, and a clearer picture of tangible and intangible values involved in each proposal. Such studies will identify the types of recreation use for each area based on land characteristics and capabilities. Sound reasons will then be available for limiting use to strictly park purposes or opening the area to other uses such as hunting, grazing, fishing and camping.

Closer working relationship between the commission and local agencies in the planning and acquisition of park and recreation areas is recommended through the passage of Assembly Bill No. 499.

The six hearings of the subcommittee fully support, and the subcommittee endorses, Assembly Bill No. 717 which transfers the acquisition function of the State Department of Finance.

D. The State Department of Water Resources already responsible for planning recreational resources in conjunction with state water projects and the review of federally sponsored projects under the small watershed development programs should be given the additional responsibility of co-ordinating recreational development in conjunction with all public and private water projects. The two measures, Assembly Bills Nos. 1294 and 1295, should be adopted. These measures permit agencies to expend funds for planning, developing, maintaining recreation facilities in conjunction with reservoirs and to defray such costs as a legitimate charge in the sale of water and power.

AMENDED IN ASSEMBLY FEBRUARY 26, 1959

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 85

Introduced by Messrs. Unruh, Sumner, Don A. Allen, Mrs. Davis, Messrs. Bruce F. Allen, Belotti, Collier, Miller, and Rees

January 7, 1959

REFERRED TO COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

An act to add Section 506.3 to the Public Resources Code, relating to the Division of Beaches and Parks of the Department of Natural Resources, and declaring the urgency thereof, to take effect immediately.

The people of the State of California do enact as follows:

SECTION 1. Section 506 3 is added to the Public Resources Code, to read:

506.3. The Division of Beaches and Parks shall be administered through a chief who shall have at least five years experience in park, recreational, or related types of administration. The chief shall be appointed by the Governor ~~upon nomination by the director~~. The chief shall serve at the pleasure of the director and his salary shall be fixed by the director in accordance with law. The chief shall have such duties as shall be assigned from time to time, by the director, and he shall be responsible to the director for the performance thereof.

SEC. 2. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is essential, in order to provide a more orderly and efficient type of administration, that the person holding the tremendously important position of Chief of the Division of Beaches and Parks, Department of Natural Resources, should have an executive status, exempt from state civil service requirements This act is designed to accomplish this purpose. In order that this act may become effective prior to the retire-

1 ment of the present holder of the Office of Chief of the Division
2 of Beaches and Parks early this year, so that his successor may
3 be appointed pursuant to the provisions of this act, it is neces-
4 sary that this act go into immediate effect.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 499

Introduced by Messrs. Don A. Allen, Unruh, Sumner, Mrs. Davis, and Mr. Bruce F. Allen

January 20, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Section 5006.2 to the Public Resources Code, relating to state parks.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5006.2 is added to the Public Resources
2 Code, to read:
3 5006.2. Before the commission commences purchase or con-
4 demnation proceedings for the acquisition of property, it shall
5 consult with and advise the legislative body of each city, city
6 and county, or county in which any portion of the property
7 is situated as to the proposed project and the acquisition of
8 property and plan for development therefor.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 499 as introduced, Unruh (N. R., P., & P. W.). Acquisition of state park property.

Adds Sec. 5006.2, P. R. C.

Requires the State Park Commission, prior to commencing purchase or condemnation proceedings to acquire state park property, to consult with and advise the legislative body of the city, city and county, or county in which the property is located.

O

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 717

Introduced by Messrs. Sumner, Unruh, Don A. Allen, Mrs. Davis, Messrs. Biddick, Busterud, Hanna, and Meyers

January 27, 1959

REFERRED TO COMMITTEE ON GOVERNMENT ORGANIZATION

An act to amend Sections 13006, 13100, and 13101 of, and to add Sections 13006.1 and 13006.2 to, the Government Code, relating to the acquisition of state property.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13006 of the Government Code is
2 amended to read:
3 13006. The work of the department shall be divided into
4 at least ~~three~~ *four* divisions known as the Budget Division, the
5 Fairs and Expositions Division, ~~and~~ the State Lands Division,
6 *and the State Property Acquisition Division*.
7 SEC. 2 Section 13006.1 is added to said code, to read:
8 13006.1. The director shall appoint a Chief of the State
9 Property Acquisition Division who shall have had at least 15
10 years' experience in governmental activities involving the ac-
11 quisition of real property and who shall possess the following
12 qualifications:
13 (a) A thorough knowledge of title and real estate law.
14 (b) A practical working knowledge of engineering proce-
15 dure, planning, and construction.
16 (c) A clear working knowledge of the law of eminent do-
17 main, court procedure, and rules of evidence.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 717 as introduced, Sumner (G. O.). Acquisition of state property by Department of Finance.

Amends and adds various sections, P. R. C.

Creates a State Property Acquisition Division in the Department of Finance, abolishing the existing Property Acquisition Division, and prescribes the qualifications of the chief of the division.

Transfers to the Director of Finance all real property acquisition functions of every state agency, except the Department of Public Works with respect to acquisition of property for highway purposes. Transfers affected personnel and property to Department of Finance, with the Governor to make the final decision as to the proper division of personnel and property

(d) A thorough knowledge of land evaluation procedure and land economics

(e) A broad knowledge of real estate values, including residential, commercial, and industrial building construction costs.

(f) A working knowledge of agricultural procedure.

(g) A knowledge of the methods of evaluation and operation of mining properties and timber lands.

(h) A working knowledge of laws pertaining to zoning and setback procedure.

(i) A working knowledge of laws pertaining to building construction and structural and building contracting practices to enable him to estimate the cost of constructing, moving, or altering buildings.

(j) A working knowledge of irrigation systems and the cost of constructing or altering irrigation pipelines.

(k) A working knowledge of public utility installations and alteration costs, including transmission lines, pole lines, and pipelines.

(*l*) A thorough knowledge of the policies, procedures, and practices of each of the state agencies for which the division is required to acquire property.

(m) A clear unerstanding of proper procedure in property acquisition negotiation work, and the meaning and purposes of a sound public relations procedure.

SEC 3. Section 13006 2 is added to said code, to read:

13006 2 The Property Acquisition Division created prior to the effective date of this section is hereby abolished.

SEC. 4 Section 13100 of said code is amended to read:

13100. The director ~~may~~ *shall* acquire title to real property in the name of the State whenever the acquisition of real property is authorized or contemplated by law, ~~if no other State agency is specifically authorized and directed to acquire it~~ *except property authorized to be acquired by the Department of Public Works for highway purposes. Upon the effective date of the act amending this section, the director succeeds to and is vested with all of the powers, duties, purposes, responsibilities, and jurisdiction in matters pertaining to the acquisition of real property vested in every state agency, except the Department of Public Works with respect to the acquisition of property for highway purposes.*

Whenever money is appropriated for the acquisition of real property by or for any state agency, other than the Department of Public Works with respect to the acquisition of property for highway purposes, the director may file against such appropriation all claims covering expenditures incurred in acquiring the property for which the appropriation was made, and the Controller shall draw his warrant therefor.

SEC. 5 Section 13101 of said code is amended to read:

13101. The director may institute and maintain in the name of the State condemnation proceedings for the acquiring of any land authorized by law to be obtained for any state agency, except land to be acquired by the Department of

Public Works for highway purposes ~~, if no other State agency is specifically authorized and directed to institute such proceedings~~. *Whenever a law requires that a state agency acquire property pursuant to the Property Acquisition Law (Part 11 (commencing at Section 15850) of this division), the director shall acquire the property pursuant to the Property Acquisition Law.*

SEC. 6. All persons, other than temporary employees, serving in the state civil service and engaged in the performance of a function transferred to the Director of Finance by Section 13100 of the Government Code or engaged in the administration of a law, the administration of which is transferred to the Director of Finance by Section 13100 of the Government Code, shall remain in the state civil service and are hereby transferred to the Department of Finance on the effective date of this act. The status, positions, and rights of such persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position that is exempt from civil service.

All public property, real or personal, of any state agency or officer used principally or primarily in carrying out of any function, or acquired in connection with the exercise of any function, which function is transferred to the Director of Finance by Section 13100 of the Government Code is transferred to the Department of Finance.

The Governor shall make the final determination as to the proper division of personnel and property between the state agencies affected by Section 13100 of the Government Code and the Department of Finance

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 720

Introduced by Mrs. Davis, Messrs. Sumner, Winton, Lowrey, Bruce F. Allen, Britschgi, Crown, Cusanovich, DeLotto, Frew, Garrigus, Samuel R. Geddes, Hawkins, Hegland, House, Lunardi, Porter, Sedgwick, Thomas, Waldie, Williamson, George A. Willson, and Z'berg

January 27, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to amend Sections 504 5, 506, 506 6, 506.7, 5001, 5003, 5003.5, 5004, 5005, 5006, 5006.1, 5006.5, 5007, 5008, 5010, 5010.5, 5012, 5012 1, 5015, 5016, 5019.5, 5020, 5021, 5022, 5023, 5025 11, 5025.12, 5025 2, 5033, 5034, 5037, 5041, 5042, 5060, 5063, 5064, 5072.5, 5073, 5074, 5076, 5080, 5082, 5084, 5085, 5086, 5087, 5088, 5089, 5090, and 5091 of, to repeal Sections 5013.5, 5035, 5036, 5075, and Article 4 (commencing at Section 5050) of Chapter 1, Division 5 of, and to add Sections 5017 and 5018 to, the Public Resources Code, relating to beaches and parks.

The people of the State of California do enact as follows:

1 SECTION 1. Section 504.5 of the Public Resources Code is
2 amended to read:
3 504.5. Wherever "Division of Parks" *or "Division of*
4 *Beaches and Parks"* is used in this code or any provision of

LEGISLATIVE COUNSEL'S DIGEST

A. B. 720 as introduced, Davis (N. R., P., & P. W.). Administration of State Park System.

Amends, repeals, and adds various sections, P. R. C.

Transfers the powers and duties of the State Park Commission to the Department of Natural Resources acting through the Division of Parks and Recreation. Provides that commission shall consult with and advise the director and the chief of the division.

Requires the department to perform planning functions with respect to a proposed development, upon appropriation of money by the Legislature for such planning, and to report to the Legislature at the next session on the proposed development, including information as to the property to be acquired and the improvements to be constructed and an estimate of cost thereof. Requires the department to forthwith commence with the acquisition, development, or construction of a proposed development covered by such a report upon appropriation of money therefor by the Legislature.

Requires department to consult with county planning commissions before leasing land for park or recreational purposes.

Repeals obsolete provisions and makes other technical and clarifying changes.

law, the phrase shall mean the Division of ~~Beaches and~~ Parks *and Recreation*.

SEC. 2. Section 506 of said code is amended to read:

506. ~~The Division of Parks shall be administered through a chief who shall have at least five years of executive experience in park, recreational, or related types of administration, and who shall be appointed by the director upon nomination by the State Park Commission.~~ *There is in the Department of Natural Resources a State Park Commission consisting of seven members appointed by the Governor with the advice and consent of the Senate.* ~~General policies for~~ *The commission shall consult with and advise the director and the Chief of the Division of Parks and Recreation in connection with* the administration, protection, and development of the State Park System ~~shall be determined by the State Park Commission which shall consist of seven members appointed by the Governor, with the advice and consent of the Senate~~. *Except as provided above, the Department of Natural Resources, acting through the Division of Parks and Recreation, succeeds to and is vested with all of the powers, duties, purposes, responsibilities, and jurisdiction vested in the State Park Commission.*

The members of the State Park Commision shall be selected from areas distributed throughout the State and because of their interest in park, *recreation,* and conservation matters and shall serve for terms of four years and until their successors are appointed and qualified. The Governor shall make ~~the first~~ appointments hereunder for terms expiring, respectively, on the fifteenth day of January, as follows: two in the year ~~1947~~ *1959*, two in the year ~~1948~~ *1960*, *two in the year 1961,* and one in the year ~~1949~~ *1962*.

~~The two new members added to the commission by the amendment made to this section by the Legislature at the 1957 Regular Session shall be appointed by the Governor for terms expiring, one on the fifteenth day of January, 1958, and one on the fifteenth day of January, 1961.~~

~~The Governor shall specify, previous to July 1, 1946, a termination date of appointment, coincident with January 15th. for the members holding office at his pleasure.~~

In case of any vacancy the appointment shall be for the remainder of the unexpired term. All appointments of members made when the Legislature is not in session shall be subject to confirmation by the Senate at the next regular or special session of the Legislature.

The commission shall elect a chairman from their number who shall serve as chairman for one year and until his successor is elected.

The Chief of the Division of Parks and Recreation shall act as secretary of the commission.

SEC. 3. Section 506.6 of said code is amended to read:

506.6. The ~~State Park Commission~~ *director* is hereby authorized and directed to appoint, in accordance with ~~civil service and other provisions of~~ law, ~~such officers and other~~

~~expert and clerical assistants as it may deem necessary~~ *a Chief of the Division of Parks and Recreation.*

The director may authorize the Chief of the Division of Parks and Recreation to exercise the director's power to appoint employees of the division in accordance with the State Civil Service Act. The director may authorize the chief or any employee of the division to exercise any power granted to, or to perform any duty imposed upon, the director by the State Civil Service Act.

SEC. 4. Section 506.7 of said code is amended to read:

506.7. The ~~State Park Commission~~ *department* shall have power to adopt, alter, change or amend any State master plan of shore line development.

SEC. 5. Section 5001 of said code is amended to read:

5001. The Department of Natural Resources, *acting* through the ~~State Park Commission~~ *Division of Parks and Recreation*, has control of the State Park System.

SEC. 6. Section 5003 of said code is amended to read:

5003. The ~~State Park Commission~~ *department* shall administer, protect, and develop the State Park System for the use and enjoyment of the public. ~~It~~ *The department* may establish rules and regulations not inconsistent with law for the government and administration of the State Park System. It may enter into contracts with cities, counties, or other subdivisions of the State, for the care and maintenance of park areas, and it may expend all moneys of the ~~State Park Commission~~ *department*, from whatever source derived, for the care, protection, supervision, extension and improvement or development of the State Park System.

It may enter into contracts with persons, firms or corporations to maintain and operate concessions within the state park areas for the safety and convenience of the general public in the use and enjoyment of the State Park System. The ~~commission~~ *department* shall obtain the approval of the Department of Finance before entering into any such contract if the contract would authorize occupancy for a period of more than one year of property owned by the State.

It may, with the approval of the Department of Finance, enter into contracts with a regional park district for the care and maintenance of, to maintain and operate concessions within, and to act ~~as agent of the commission~~ in the management of, any beaches, parks, public campgrounds, monument site, landmark site, site of historical interest, or other state park areas under its control.

SEC. 7. Section 5003.5 of said code is amended to read:

5003.5 The ~~State Park Commission~~ *department* is authorized to provide means of ingress to and egress from all state parks in order to provide ready access thereto by the public and to provide means of ingress and egress to highways and roads across state parks from lands separated from such highways and roads by state parks, and for that purpose may enter into contracts or agreements with cities, counties, and

other political subdivisions of the State and with other state agencies or with persons, firms or corporations for the acquisition, construction, and maintenance of suitable roads, trails, and pathways.

When application is received by the ~~State Park Commission~~ *department*, other than under Section 5012, from any person, firm or corporation for right-of-way across a state park for ingress and egress to a highway or road from their lands separated from such highway or road by the state park, the ~~commission~~ *department* shall determine whether any reasonable access exists outside the boundaries of the park, or could be economically constructed. Where reasonable access does not exist or cannot be economically constructed outside the boundaries of the park, the ~~commission~~ *department* shall grant a permit for right-of-way across the park over such route and subject to such conditions and construction and maintenance specifications as the ~~commission~~ *department* may determine which will cause minimum alteration to the physical features of the park and minimum interference with the use of the park by the public The permittee shall at his own expense construct and maintain the means of ingress and egress in accordance with the terms and conditions set forth in the permit, noncompliance with which in any part shall be due cause for revocation of such permit. The ~~commission~~ *department* may require a permittee or permittees to allow the use of such means of ingress and egress by any other applicant whose lands are similarly situated. The ~~commission~~ *department* shall grant a permit for such use under terms and conditions imposed upon existing users, upon payment of a reasonable compensation for construction and maintenance of the road, by the applicant to the existing permittee, or permittees.

SEC 8 Section 5004 of said code is amended to read:

5004. The ~~State Park Commission~~ *department* shall gather, digest, and summarize, in its annual reports to the Governor, information concerning the State Park System and the relation to it of other available means for conserving, developing, and utilizing the scenic and recreational resources of the State.

SEC. 9. Section 5005 of said code is amended to read:

5005. The ~~State Park Commission~~ *department* may receive and accept in the name of the people of the State any gift, devise, grant, or other conveyance of title to or any interest in real property, including water rights, roads, trails, and rights-of-way, to be added to or used in connection with the park system. It may receive and accept gifts, donations, contributions, or bequests of money to be used in acquiring title to or any interest in real property, or in improving it as a part of or in connection with the State Park System, or to be used for any of the purposes for which the ~~commission~~ *Division of Parks and Recreation* is created It may also receive and ac-

cept personal property for any purpose connected with the park system.

SEC. 10. Section 5006 of said code is amended to read:

5006. The ~~State Park Commission~~ *department*, with the consent of the Department of Finance, may acquire by purchase or by condemnation proceedings brought in the name of the people of the State of California, title to or any interest in real and personal property which the ~~commission~~ *department* deems necessary or proper for the extension, improvement, or development of the State Park System.

Proceedings for the condemnation of any real or personal property or any interest therein shall be taken under the provisions of the Code of Civil Procedure relating to eminent domain. The ~~commission~~ *department* shall not commence any such proceedings unless ~~it~~ *the director* first ~~adopts a resolution~~ *issues a declaration* declaring that public interest and necessity require acquisition by the State of the property or interest therein, described in the ~~resolution~~ *declaration*, and that such acquisition is necessary and proper for the extension, improvement, or development of the State Park System.

SEC. 11 Section 5006.1 of said code is amended to read:

5006.1. The ~~resolution~~ *declaration* of the ~~commission~~ *director* shall be conclusive evidence:

(a) Of the public necessity of such proposed acquisition.

(b) That such real or personal property or interest therein is necessary therefor.

(c) That such proposed acquisition is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

SEC. 12. Section 5006.5 of said code is amended to read:

5006 5 The ~~State Park Commission~~ *department*, with the consent of the Department of Finance, may lease any interest in real property which the ~~commission~~ *department* deems necessary or proper for the extension, improvement, or development of the State Park System. No payment from state money in excess of one thousand dollars ($1,000) a year shall be made pursuant to any such lease unless and until money equal to or exceeding one-half of the excess over one thousand dollars ($1,000) shall have been made available for expenditure by the State for the purpose by some person, corporation, public district, municipality or political subdivision other than the State, or by the United States or an agency thereof. *No lease shall be executed under this section, or under Section 5060 of this code, until the department has first consulted with the planning commission of the county in which the department proposes to lease lands for park or recreational purposes.*

SEC 13 Section 5007 of said code is amended to read:

5007. Contracts may be entered into between the ~~State Park Commission~~ *department* and cities, counties and other political subdivisions of the State for the care, maintenance, and control, for the purposes of the State Park System, by either party to the contract, of lands under the jurisdiction

of the other party to the contract. The expenses of the care, maintenance, and control may be paid from the general fund of the city, county, or other political subdivision of the State or from the funds of the ~~State Park Commission~~ *department*, as the case may be.

SEC. 14. Section 5008 of said code is amended to read:

5008. The ~~State Park Commission~~ *department* shall protect the state parks from damage and preserve the peace therein.

The ~~commission~~ *director* may confer on the Chief of the Division of ~~Beaches and~~ Parks *and Recreation* and other employees which ~~it~~ *he* may designate, the full authority and powers of peace officers for state parks.

Any person who violates the rules and regulations established by the ~~State Park Commission~~ *department* is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding five hundred dollars ($500) or by both such fine and imprisonment.

SEC. 15. Section 5010 of said code is amended to read:

5010. The ~~State Park Commission~~ *department*, whenever in its judgment it is practicable to do so, shall collect fees, rentals, and other return for the use of any state park area, the amounts to be determined by the ~~Park Commission~~ *department* and to be paid into the State Treasury to the credit of the State Beach and Park Fund, which is hereby created. The State Beach and Park Fund and all moneys received by the ~~commission~~ *department* from any source, including eminent domain, except those received under Section 5009, are hereby continually appropriated for improvement, equipment and maintenance of state parks, state monuments, roads, roadside rests, trails and pathways, and when specifically appropriated by the Legislature for construction and acquisition of the above-named projects.

All moneys in the State Beach Fund, the State Park Fund and the State Park Maintenance Fund are hereby transferred to the State Beach and Park Fund and all moneys now appropriated from the above-named funds are considered appropriated from the State Beach and Park Fund, and such appropriations shall remain available for the same period as they were originally made. The State Beach Fund, the State Park Fund and the State Park Maintenance Fund are abolished. All references in any law heretofore or hereafter enacted to any of such funds shall be deemed to refer to the State Beach and Park Fund.

SEC. 16. Section 5010.5 of said code is amended to read:

5010.5. The Director of Natural Resources may authorize the refund of moneys received or collected by himself or by the Division of ~~Beaches and~~ Parks *and Recreation* illegally, or by mistake, inadvertence, or error. Claims authorized by the director shall be filed with the State Controller and the Controller shall draw his warrant against the State Beach *and*

Park Fund ~~or State Park Fund~~ in payment of such refund from any appropriation made for that purpose.

SEC. 17. Section 5012 of said code is amended to read:

5012. The ~~Director of Natural Resources~~ *department*, upon application by the proper authorities ~~and on such terms and conditions as the State Park Commission may prescribe~~, may grant easements for public highways over and across state park lands under the jurisdiction of the department ~~and the State Park Commission~~.

The ~~director~~ *department* may also, upon application by the board of supervisors of any county which is developing within its own boundaries a small craft harbor and recreational area in co-operation with the Government of the United States, ~~and on such terms and conditions as the State Park Commission may prescribe,~~ grant easements for channels or facilities necessary for the development of such small craft harbor and recreational area, over and across state park lands under the jurisdiction of the department ~~and the State Park Commission~~.

SEC. 18. Section 5012.1 of said code is amended to read:

5012.1. The ~~State Park Commission~~ *department* upon application by any public utility, either publicly or privately owned, shall specify the location, manner of construction, and maintenance of light, power, gas, water, telephone and telegraph lines across state park lands under the jurisdiction of the ~~State Park Commission~~ *department* unless ~~the commission~~ *it* finds that the construction and maintenance of such utility structures unduly and measurably interfere with the development, use and enjoyment of the State Park System; provided, that if at any time the location of such structures interferes with the development, use and enjoyment of the state park on which they are located they will, on demand of the ~~commission~~ *department*, be moved to another location, designated by the ~~commission~~ *department*, at the expense of the owner thereof.

The ~~commission~~ *department* may, upon application therefor, grant easements, upon terms and conditions prescribed by the ~~commission~~ *department*, for ~~such~~ public utility structures across state park lands when in ~~their~~ *its* judgment the public necessity requires that the structure be permanent and the nature of the structure may reasonably be permanently located or may be of a nature, such as underground construction, that would not interfere with the development of the state park.

SEC. 19. Section 5013 5 of said code is repealed.

SEC. 20. Section 5015 of said code is amended to read:

5015. ~~The State Park Commission is the agency of the State designated to supervise and charged with, the acquisition, development, maintenance and protection of ocean beaches for public recreational purposes and control and correction of beach and cliff erosion, and when the State shall provide for the expenditure of any money for the development and protection of public beaches owned by counties or municipalities, the~~

~~State Park Commission is the agency of the State designated to supervise such expenditure.~~

~~In the performance of its powers and duties under this section the State Park Commission may co-operate with the United States, the Beach Erosion Board of the United States or with any other federal agency or with any county or municipality, or with the State Lands Commission, or with any other state office, or with any or all such agencies and upon such terms and conditions and in such manner as will be for the best interest of the State. Insofar as matching funds required by this section are to be supplied by the United States or any agency thereof, such funds need not be deposited in the State Treasury or otherwise made available for expenditure by the State but may be retained by the federal agency for expenditure by it in carrying out the purpose of the appropriation as may be provided for by agreement therewith.~~

No acquisition, development or protection of any beaches for public use or control and correction of beach or cliff erosion shall be accomplished in any county which has not adopted a master plan of beaches for that county, which plan shall provide for the acquisition, development, and control of ocean beaches in such county and which plan has been submitted to and approved by the ~~State Park Commission~~ *department.* ~~nor shall any portion of an appropriation made by this State be expended for acquisition, development, improvement or protection of any ocean beaches or bays and inlets thereof for recreation purposes only, owned by a county or municipality or control and correction of beach or cliff erosion on beaches or cliffs owned by any person, corporation or other ownership or by a county or municipality unless moneys equal to or in excess of the amount to be expended from the appropriation for that purpose shall have been made available (by any person, corporation, political subdivision, public district or public subdivision other than the State, or by the Federal Government or its agencies) for expenditure by the State for that purpose, to the end that any sums expended for such acquisition, development, improvement or protection and control shall be matched by like or greater amounts from sources other than the State. Within the discretion of the State Park Commission, in lieu of any matching contribution in the form of money for the acquisition of any ocean beach within any city or any county, or city and county such city or county or city and county may contribute any ocean beach within its limits heretofore or hereafter acquired by it, subject to the approval of the State Park Commission, upon such terms as are mutually agreeable.~~

~~It is not intended that the provisions of this act shall prevent or restrict any county, city, county and city or political subdivision from appropriating and spending its own funds to acquire, develop or protect any beach or cliff erosion within its jurisdiction even though said county has not yet adopted a master plan of beaches for that county, provided, that this shall not relieve any such county, city, county and city or political subdivision from compliance with Section 6301.~~

SEC 21. Section 5016 of said code is amended to read:

5016. In order to eliminate or acquire privately owned lands situated within the present exterior boundaries of the Anza Desert State Park Project, the ~~State Park Commission~~ *department* is authorized to exchange for such lands other lands of approximately equal value which have been or may hereafter be patented to the State for park purposes by the Federal Government. In making the exchanges the ~~commission~~ *department* may comply with all rules prescribed by the Secretary of the Interior relating thereto.

SEC. 22. Section 5017 is added to said code, to read:

5017. Whenever the Legislature appropriates money for the planning of any state beach or park or recreational area development, the department shall forthwith cause investigations, studies, surveys to be made, and generalized plans to be prepared, with respect to the proposed development and shall report thereon to the Legislature at the next succeeding session of the Legislature, including in such report a description of the property to be acquired and the improvements to be constructed in connection with the proposed development, an estimate of the cost thereof, and an estimate of the visitor days projected.

SEC 23 Section 5018 is added to said code, to read:

5018 Whenever, after the receipt of a report submitted pursuant to Section 5017 with respect to a state beach or park or recreational area, the Legislature appropriates money for the acquisition, development, or construction of such state beach or park or recreational area, the department shall forthwith commence with such acquisition, development, or construction.

SEC. 24 Section 5019 5 of said code is amended to read:

5019 5 Before any park or recreational area developmental plans is made, the ~~Director of Natural Resources~~ *department* shall cause to be made a land carrying capacity survey of the proposed park or recreational area, including in such survey such factors as soil, moisture, and natural cover.

SEC 25 Section 5020 of said code is amended to read:

5020 (a) The Governor is hereby authorized to appoint an Historical Landmarks Advisory Committee of seven members to include such persons as he may deem are best qualified to carry out the purposes of this article and who shall serve without compensation and shall hold office at the pleasure of the Governor.

(b) The Historical Landmarks Advisory Committee shall have authority:

1. To make a census of all existing historical buildings or landmarks heretofore registered by the Department of Natural Resources, or privately marked by the Native Sons and Daughters of the Golden West, or privately marked by any other public agency or local historical society.

2. To conduct a continuing survey of all important historical sites in the State, whether previously registered or not, and

recommend to the ~~State Park Commission~~ *department* those which, in its opinion, shall be officially registered.

3. To receive and consider applications from any governmental agency, historical association or private individuals for the designation and registration of any historical building or landmark.

4. To recommend to the ~~State Park Commission~~ *department* the qualifications for acceptance of registered historical buildings and landmarks which shall include but are not limited to military, political, agricultural, educational, economic and cultural events and locations within the State.

5. To recommend to the ~~State Park Commission~~ *department* the type of plaque and the descriptive material to be included thereon to be required before marking any historical landmark or building.

6. To recommend to the ~~State Park Commission~~ *department* those historical buildings and landmarks which it determines are qualified for marking.

(c) The term "landmarks" in this article shall mean historical buildings, sites and places deemed important in the economic, social, political, military and cultural annals of California.

SEC. 26. Section 5021 of said code is amended to read:

5021. The ~~State Park Commission~~ *department* shall consider all recommendations made by the Historical Landmarks Advisory Committee and shall *register* ~~certify to the Director of Natural Resources all~~ historical ~~buildings or~~ landmarks which in ~~the~~ *its* judgment ~~of the State Park Commission~~ are of sufficient historical interest to warrant registration under this article~~,~~. ~~and upon the approval of the Director of Natural Resources, it~~ *The department* shall maintain a register which shall identify by number and description such historical ~~buildings and~~ landmarks.

SEC. 27. Section 5022 of said code is amended to read:

5022. The ~~State Park Commission is authorized to~~ *department may* contract with or co-operate with public or private agencies for suitable markers and directional signs at the site of, or on the approaches to, registered landmarks, including signs on highways and roads. All such markers shall conform to the recommendations of the Historical Landmarks Advisory Committee as provided for in Section 5020 of this article.

SEC. 28. Section 5023 of said code is amended to read:

5023. (a) It shall be the duty of the State Department of Public Works to keep in repair all objects or markers adjacent to a state highway which have been erected to mark registered historical places and to keep such monuments or markers free from vegetation which may obscure them from view.

(b) It shall be the duty of the county authorities, in charge of county highways, and all city authorities, with respect to streets and highways under their respective jurisdictions, to keep in repair or cause to be kept in repair all objects or

markers adjacent to a public highway which have been erected to mark registered historical places and to keep such markers and monuments free from all vegetation which may obscure them from view.

(c) It shall be the duty of the ~~State Park Commission~~ *department* to keep in repair or cause to be kept in repair all objects, markers and monuments designating any registered historical places in respect to which no obligation in respect thereto is imposed on other governmental agencies by this section, and the ~~State Park Commission~~ *department* shall keep such markers and monuments free from all vegetation which may obscure them from view.

SEC. 29. Section 5025.11 of said code is amended to read:

5025 11. The ~~State Park Commission~~ *department* shall, with the advice of the Historical Landmarks Advisory Committee, certify ~~to the Director of Natural Resources and the Division of Beaches and Parks,~~ the route followed by Colonel John Charles Fremont and party from the Nevada state line through Mono, Inyo, Alpine, Amador, and El Dorado Counties to Sutter's Fort in Sacramento County in the winter of 1843.

SEC. 30. Section 5025 12 of said code is amended to read:

5025.12. The ~~Division of Beaches and Parks~~ *department* is authorized to place suitable markers along this certified route at intervals and at each intersection with a state highway or county road.

SEC 31. Section 5025 2 of said code is amended to read:

5025 2. It shall be the duty of the ~~Division of Beaches and Parks~~ *department* to keep in repair, or cause to be kept in repair, all markers of such historical routes

SEC. 32 Section 5033 of said code is amended to read:

5033. The ~~commission~~ *department* may accept as a part of the Mission Bay State Park, all privately or publicly owned land adjoining it or its immediate vicinity, if the lands are tendered free of charge and unencumbered and, in the judgment of the ~~commission~~ *department*, are of sufficient historic, scenic, scientific, or recreational value to warrant incorporation into the state park.

SEC. 33. Section 5034 of said code is amended to read:

5034. The provisions of Sections 5032 and 5033 of this article shall not affect easements or rights of way granted or acquired before August 14, 1929, upon or across such waters or lands for highway purposes; nor shall those provisions in any way affect any lease or franchise of any state-owned waters or tidelands, existing on August 14, 1929. Upon the expiration of every such lease or franchise, the lands or waters subject thereto immediately shall pass under the control of the ~~State Park Commission~~ *department* to be administered as part of the State Park System.

SEC. 34. Sections 5035 and 5036 of said code are repealed.

SEC. 35. Section 5037 of said code is amended to read:

5037. The ~~State Park Commission~~ *department* shall provide for the preservation, development, and interpretation of

the John Bidwell Mansion as a state historical monument when the State Department of Education determines that the John Bidwell Mansion is no longer necessary for classroom purposes. The ~~State Park Commission, acting by and through the Division of Beaches and Parks, Department of Natural Resources,~~ *department* shall upon acquisition of the property provide for such restoration and improvements as are necessary to carry out the purposes of this section, upon appropriation of the necessary funds.

The properties acquired, restored, improved, maintained, and operated pursuant to this section shall constitute a portion of the State Park System.

SEC. 36. Section 5041 of said code is amended to read:

5041. To assure the accomplishment of this policy it is directed that:

(a) The ~~Division of Beaches and Parks under the direction of the Director of Natural Resources and in accordance with the policies established by the State Park Commission~~ *department* shall make a survey based on historical research to determine the type and materials of construction, location, and uses of the structures which existed on the acquired area of the town of Columbia during those "early days"; and based on the data so obtained shall prepare a master plan of restorational development to which ~~when approved by the commission~~ all work of preservation and restoration shall substantially conform. Thereafter such master plan ~~shall~~ *may* be modified *by the department* ~~only with the specific approval of the commission~~ acting upon additional authentic information. Pending completion ~~and approval~~ of such master plan work of preservation and repair of existing structures which have existed since "early days" and the restoration and erection of such structures the authenticity of whose plans and construction may be satisfactorily determined may be accomplished by the ~~division under supervision of the director when approved by the commission,~~ *department* to the extent of availability of appropriated funds or of other funds donated to the ~~commission~~ *department* for such purposes.

(b) Leases of buildings within the area may be made ~~with the approval of the director~~ *by the department* on such terms and conditions as determined by the ~~commission~~ *department* for occupancy, including such lawful use which is found to be the same or similar use which held in the "early days" or which as determined by the ~~commission~~ *department* is not inconsistent with the objective of this ~~act~~ *article*.

(c) A building or buildings shall be used for the establishment of a museum to shelter and display exhibits of appliances used in mining or other activities of the vicinity, articles formerly possessed or used by "early days" inhabitants of the town, and items of historic interest or suitable for inclusion as approved by the ~~commission~~ *department*, whether loaned, donated or otherwise acquired.

(d) Any structures whose preservation or restoration is assured by suitable contribution, when aproved by the ~~commission~~ *department*, may be named in honor of or as a memorial to the donor or as designated by the donor.

SEC. 37. Section 5042 of said code is amended to read:

5042. The Columbia Historic Park Association, a nonprofit corporation, is designated as a committee advisory to the ~~commission~~ *department* in the research incident to and adoption of the master plan for development and upon policies of preservation, restoration and management of Columbia Historic State Park.

SEC. 38. Article 4 (commencing at Section 5050) of Chapter 1 of Division 5 of said code is repealed.

SEC. 39. Section 5060 of said code is amended to read:

5060. The department ~~of Natural Resources, acting through the State Park Commission,~~ may enter into contracts with individuals or with other governmental agencies or departments for the lease, for park and recreational purposes and for the development and expansion of park and recreational areas, of lands which in the judgment of the ~~commission~~ *department* are desirable for these purposes, on such terms and subject to such conditions as the ~~commission~~ *department* may determine.

SEC. 40. Section 5063 of said code is amended to read:

5063. Before entering into any such lease contract, the lands proposed to be leased shall be appraised by three appraisers, appointed by the Governor, who shall determine the fair market value of the lands. The total amount of rental to be paid for the entire term under any lease contract shall not be in excess of the fair market value of the lands, as determined by the appraisers. The appraisers shall file with the Director of Finance three verified copies of their appraisal of any lands proposed to be leased. The director shall thereupon deliver one copy of the appraisal to the ~~State Park Commission and one copy to the Director~~ *Department* of Natural Resources.

SEC. 41. Section 5064 of said code is amended to read:

5064. The ~~commission~~ *department* for a consideration may assign such options to other governmental agencies or departments. The ~~commission~~ *department* may accept gifts of money or lands from individuals and from other governmental agencies for the purpose of acquiring, by purchase or exchange, the lands under option.

SEC. 42. Section 5072.5 of said code is amended to read:

5072.5. The ~~State Park Commission~~ *department* may abandon any easement, or portion thereof, which has been acquired for trail or flood purposes, and which is no longer necessary for such purposes.

SEC. 43. Section 5073 of said code is amended to read:

5073. The provisions of this article shall be administered by the ~~Division of Beaches and Parks under the supervision of the Director of Natural Resources in accordance with policies established by the State Park Commission~~ *department*.

The ~~State Park Commission~~ *Director of Natural Resources* may appoint an advisory committee to be known as the California Riding and Hiking Trails Advisory Committee, to consist of seven members, two from the northern, two from the southern, two from the central portion of the State, and one at large, selected from lists submitted upon invitation by the ~~Park Commission~~ *director* by appropriate civilian organizations interested in the establishment and use of a State Trails System.

SEC. 44. Section 5074 of said code is amended to read:

5074. The terms of members of the committee are temporary and at the pleasure of the ~~commission~~ *director*. No member shall serve for longer than permitted by Section 6, Article XXIV, of the State Constitution. Members shall serve on an intermittent basis and shall be deemed to be in the service of the State only on days during which they attend committee meetings and travel to and from them. Each member of the committee shall receive his necessary expenses, including traveling expenses, incurred in discharge of his duties. Meetings of the committee shall be limited to 12 in any one fiscal year. The ~~commission~~ *director* shall abolish the committee when in ~~its~~ *his* opinion the services thereof are no longer required.

SEC. 45. Section 5075 of said code is repealed.

SEC. 46 Section 5076 of said code is amended to read:

5076. The committee shall investigate all matters pertaining to the proposed project and shall annually prepare a report on these matters and forward it to the ~~State Park Commission~~ *department* in time for the ~~commission~~ *department* to incorporate it in the annual report of the ~~commission~~ *department* to the Governor concerning the State Park System

SEC. 47. Section 5080 of said code is amended to read:

5080. Many persons traveling along the state highways make brief stops for the purpose of eating their meals and resting before resuming their travel. At the present time there are insufficient places where such stops can be made in safety and where free facilities are provided for eating lunches and disposing of the litter therefrom. Under the present law, such facilities could be provided, subject to the availability of funds, either by the Department of Public Works or the ~~Division of Beaches and Parks of the~~ Department of Natural Resources. In enacting this article it is not the intent of the Legislature to diminish any existing powers of either agency, but rather to provide specifically for the development of a system of roadside rest areas with appropriations made for the purpose of carrying out this article. In carrying out this article, the ~~Division of Beaches and Parks~~ *Department of Natural Resources* and any other state or public agency may exercise all powers given to them under any law other than this article, except as expressly prohibited by this article, and shall co-operate in the exchange of pertinent information to the end that the program contemplated by this article can be co-ordinated

with the locating, planning, and constructing of other public works.

It is the intent of the Legislature that the locating, constructing, equipping and maintaining of roadside rests be initiated on a statewide experimental basis with minimum equipment and facilities, other equipment and facilities to be added to existing rests and included in new construction when and to the extent it is justified by experience.

SEC. 48. Section 5082 of said code is amended to read:

5082. Roadside rests shall be located, constructed, equipped, and maintained as the ~~State Park Commission~~ *Department of Natural Resources* finds the public interest requires in the light of the condition of the site and the extent of the traffic. Roadside rests shall be located where, in the opinion of the Department of Public Works, Division of Highways, they can be located without undue hazards to traffic. All roadside rests on state highways shall be subject to the approval of the Department of Public Works, Division of Highways, as to location, fencing, and manner and extent of access to the rest areas from the highway and from adjacent private property.

The Division of Highways shall co-operate with the ~~Division of Beaches and Parks~~ *Department of Natural Resources* to provide an adequate number of rest areas in connection with the National System of Interstate and Defense Highways, as provided in the Highway Revenue Act of 1956 in combination with the Federal Aid Highway Act of 1956.

SEC. 49. Section 5084 of said code is amended to read:

5084. The provisions of this article shall be administered by ~~the Division of Beaches and Parks under the supervision of~~ the ~~Director~~ *Department* of Natural Resources ~~in accordance with policies established by the State Park Commission~~.

SEC. 50. Section 5085 of said code is amended to read:

5085. The ~~State Park Commission~~ *Department of Natural Resources* may accept grants on behalf of the State and may accept financial assistance for, or in aid of, roadside rests.

SEC. 51. Section 5086 of said code is amended to read:

5086. The ~~Division of Beaches and Parks~~ *Department of Natural Resources* may use any state park or portion thereof for the purpose of providing roadside rests and may use property of any other state or public agency or private person or of the Federal Government leased, or the temporary use of which has been granted, for the purpose of providing roadside rests.

SEC. 52. Section 5087 of said code is amended to read:

5087. The ~~Division of Beaches and Parks~~ *Department of Natural Resources* may exercise all or any portion of the powers it has with respect to roadside rests pursuant to Chapter 5 (commencing at Section 6500) of Division 7 of Title 1 of the Government Code. For the purposes of this article, "public agency" as used in said Chapter 5 includes any person, firm, association, organization, partnership, business trust, corporation, or company.

SEC. 53. Section 5088 of said code is amended to read:

5088. Except as to roadside rests located in state park areas, the ~~division~~ *Department of Natural Resources* shall not proceed with the establishment of any roadside rest without first seeking the advice and recommendation of the planning commission of the county in which the roadside rest is to be established.

SEC. 54. Section 5089 of said code is amended to read:

5089. Prior to the disposal by sale of excess fee-owned parcels acquired for state highway purposes, not needed for such purposes, the Department of Public Works shall notify the ~~Division of Beaches and Parks~~ *Department of Natural Resources*, and the Department *of Public Works* and the ~~division~~ *Department of Natural Resources*, pursuant to law, shall endeavor to arrange for the conveyance to or use by the ~~division~~ *Department of Natural Resources* for roadside rest purposes of any property deemed suitable therefor by the ~~State Park Commission~~ *Department of Natural Resources*; provided, that this requirement of notice shall not apply to the disposal of such excess parcels by exchange for other property, pursuant to the terms of right-of-way contracts making provision for such exchange, or to any other method of disposal not constituting a sale, nor shall such requirement apply to the disposal by sale or exchange of excess parcels located in urban areas or in other areas which the Department *of Public Works* and the ~~division~~ *Department of Natural Resources*, by mutual agreement, consider unsuitable for development of roadside rests.

SEC 55. Section 5090 of said code is amended to read:

5090. The ~~Division of Beaches and Parks~~ *Department of Natural Resources* shall be responsible for the maintenance of all roadside rests constructed and equipped by that agency. It may contract with the Department of Public Works, Division of Highways, or any public or private agency for such maintenance work if the Director of Finance finds that maintenance by contract would be more economical. Subject to the approval of the Department of Public Works, Division of Highways, as to location of signs, the ~~division~~ *Department of Natural Resources* may also erect and maintain signs indicating where roadside rests may be found, or may contract with the Department of Public Works, Division of Highways, for the erection and maintenance of the same. Roadside rest signs shall be of such shape and color as to be clearly distinguishable from highway directional signs.

SEC 56. Section 5091 of said code is amended to read:

5091. State laws and rules and regulations of the ~~State Park Commission~~ *Department of Natural Resources* shall be administered and enforced within roadside rests by all employees of the State authorized by the ~~State Park Commission~~ *Department of Natural Resources* to do so and by all peace officers.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1294

Introduced by Messrs. Unruh and Porter

February 10, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 727.5 to the Public Utilities Code, relating to public utilities.

The people of the State of California do enact as follows:

1 SECTION 1. Section 727.5 is added to the Public Utilities
2 Code, to read:
3 727.5. It is hereby declared that it is necessary to the
4 public health and safety that in the development of the water
5 resources of the State, provision be made for their utilization
6 for all beneficial purposes to the fullest extent possible. There-
7 fore, it is the established policy of this State that reservoirs
8 owned or operated by any public utility, except a common
9 carrier be made available for recreational purposes to the full-
10 est extent compatible with the primary use of such reservoirs,
11 and that the costs of development and maintenance of recrea-
12 tional facilities in connection with such reservoirs is a proper
13 obligation to be assumed by the users and consumers of the
14 services provided by such public utilities. To this end, any
15 public utility, except a common carrier, owning or operating
16 any reservoir, may expend funds collected as charges for serv-
17 ices to develop and maintain recreational facilities in connec-
18 tion with such reservoir and the Public Utilities Commission
19 in determining and fixing rates to be charged by any such

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1294 as introduced, Unruh (P. U. & C.). Development of recreational facilities at private reservoirs.

Adds Sec. 727.5, P. U. C.

Permits any public utility, except a common carrier, owning or operating a reservoir to expend funds to develop recreational facilities thereat and permits Public Utilities Commission to consider such costs in fixing rates for services.

1 public utility may take into consideration the costs of develop-
2 ing and maintaining any such recreational facilities developed
3 or maintained or proposed to be developed or maintained by
4 any such public utility and may include such costs in the
5 factors determining the rate fixed for services performed or
6 rendered by such public utility.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1295

Introduced by Messrs. Unruh and Porter

February 10, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Section 106.6 to the Water Code, relating to recreational use of reservoirs.

The people of the State of California do enact as follows:

1 SECTION 1. Section 106.6 is added to the Water Code, to
2 read:
3 106.6. It is hereby declared that it is necessary to the pub-
4 lic health and safety that in the development of the water
5 resources of the State, provision be made for their utilization
6 for all beneficial purposes to the fullest extent possible. There-
7 fore, it is the established policy of this State that reservoirs
8 owned or operated by the State, counties, cities, cities and
9 counties, public districts, or other public agencies for other
10 than recreational purposes be made available for recreational
11 purposes to the fullest extent compatible with the primary use
12 of such reservoirs, and that the costs of development and main-
13 tenance of recreational facilities in connection with such reser-
14 voirs is a proper obligation to be assumed by the users and
15 consumers of the water and electrical energy made available
16 by means of such reservoirs and related facilities. To this end,
17 the State, or any county, city, city and county, public district,
18 or other public agency, owning or operating any reservoir may

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1295 as introduced, Unruh (N. R., P., & P. W.). Development of recreational facilities at public reservoirs.

Adds Sec. 106.6. Wat. C.

Permits the State or any public agency owning or operating a reservoir to expend its funds to develop recreational facilities thereat and to include costs thereof in service charges.

1 expend its funds to develop and maintain recreational facil-
2 ities in connection with such reservoir and may include the
3 costs of developing and maintaining such recreational facil-
4 ities in the charges for water and electrical energy made avail-
5 able by means of such reservoir and related facilities.

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FULL REPORT

INTRODUCTION

With the continuing accelerated growth of California's population and its concentration in urban and metropolitan areas, the importance of the inspiration, enjoyment and relaxation resulting from outdoor recreation becomes increasingly necessary to the health of the people of the State. While recreation demand depends on the levels of population and economic development, the factors of urbanization and the loss of open space in metropolitan areas is appreciable in estimating future recreation requirements.

While present population is estimated at 15,000,000, the State's ultimate growth will exceed 45,000,000 within 100 years. By 1970, projections indicate that population growth will equal one-half this figure. The demands for additional recreational areas will be influenced in addition to population by technological developments in industry, improvement in labor efficiency, transportation and communication, leading to higher standards with more leisure time. All trends point to more goods and services, more leisure time for people to travel and more income for recreation expenditure These factors are now placing strain on existing recreational resources.

In the decade 1946 to 1956, persons visiting the national forests and national parks in California increased 54 percent while state population during this period increased only 36 percent. Reports by the California State Park Commission indicate that the demand for camping and picnicking sites has far exceeded supply. Camping and picnicking facilities in the national forests in California which were more than adequate by 22 percent in 1946 had reduced the percentage of adequacy by 13 percent in 1950, and by 1955 were inadequate by 31 percent. This overload in the national forests would have required 4,000 additional camping and picnicking units to meet the visitor-day use the national forests absorb. Trends projecting recreation demand in outdoor areas related both to population growth and increasing use of these areas resulting from more leisure, improved transportation and higher incomes, indicate that when the State reaches a population of 45,000,000, visitor-day use in the national forests in California may exceed 300,000,000 visits.

Recreation is an industry in California of major importance and justification for public recreation expenditure is found not only in the satisfaction of legitimate recreation desires of the public but also in the enhancement of this growing industry. Recent surveys indicate that the average recreation expenditure in the form of food, shelter, gasoline, automobile services, sportswear and sporting equipment averages $8 per visitor day. The total indirect benefit to these businesses at the point of origin, en route and at the recreation area can be estimated by multiplying the 300,000,000 visitor days by this figure for a gross

figure of 2.4 billion. Added to this, of course, is outside tourism which well may equal or exceed this value.

To meet these projected recreation demands, public policy must require the expansion of recreation and park facilities, the proper integration of the recreation function and the appropriate planning of areas selected for recreation acquisition and development.

DIVIDED AUTHORITY—INCREASED STATE RESPONSIBILITY

In the face of present outdoor recreation deficiency and projected demand, authority and responsibility in the recreation function are divided. State responsibility for the planning and administration of recreation activities is divided among 13 state agencies, affected by at least six federal agencies and by the influence of all the cities and counties in California. It is a strange commentary upon state organization that while California has led the Nation in its planning and administration of the recreation function at the local level it has permitted the dissipation of the park and recreation function among these many agencies. The argument here is not against the great facilities and skills available in these agencies for providing the people with balanced recreation but it is in the lack of integration and co-ordinated planning that the people of the State have a right to expect.

This subcommittee recognizes that the various agencies involved in recreation activities must eventually be consolidated into a single department or departmental division in order to achieve the co-ordination necessary to meet present deficiencies and future requirements A full scale reorganization of the recreation agencies has not been within the scope of the assignment of this subcommittee. Consequently, it is the committee's recommendation that the subject of integration of the recreation function be studied during the coming interim by an appropriate Assembly committee.

The recreation crisis in California, however, cannot await the results of this study nor possible reorganization recommendations that may result from the California Outdoor Recreation Planning Committee. The hearings of the subcommittee over the past six years have justified the recommendation that the Division of Beaches and Parks and the commission be integrated fully into the Department of Natural Resources. It is the conclusion of the subcommittee that the policy and administrative direction of the Park Commission is primarily responsible for delay in the planning, acquisition and development of recreation areas. While these conflicts in administrative practices and policy were reviewed in the 1957 report of the subcommittee, additional factors have been elicited during the hearings of this past interim.

Six hearings on acquisition and development policies, programs and procedures have been held during the past four years. Four of these were in Sacramento, with all testimony submitted under oath. The services of the Legislative Analyst, the Auditor General, and the Legislative Counsel were enlisted to review policies, procedures and progress in the park and recreation program and to assist in the conduct of the hearings. The Division of Beaches and Parks and the Department of Natural Resources have fully co-operated in these investigations by making file material available and by submitting numerous reports,

documents and office memoranda to the subcommittee. Members of the commission, the division and the department have spent many weary hours on the witness stand explaining or attempting to explain the complicated processes of acquisition which have evolved under division and commission policies. More clear cut, however, are the policies of long negotiation and refusal to use condemnation as a tool in the acquisition process.

Conflicts in Authorization

Existing conflicts in authorization between the commission, the division, and the Department of Natural Resources would be sufficient, in the absence of existing informal agreements, to bring the entire park program to a grinding halt. Working arrangements, however, have permitted each of the agencies to function within this framework of confusion regardless of the code provisions. These arrangements and the code conflicts are reviewed in the following quotation from a report prepared for the subcommittee by the Legislative Analyst.[1]

> * * * the State Park Commission has delegated its administrative responsibilities completely to the department and to the division The present commission has retained only responsibility for policy determination and the authority to approve contracts with outside agencies. such as land lease or land acquisition contracts. Authority over approval of plans has also been retained by the commisssion.
>
> The commission takes no part in the procurement of personnel, equipment or supplies. The budget of the division and of the park system developed and adopted by the department is an integral part of the department's budget. Even though the commission has legal powers over all budget matters it has not seen fit to adopt a resolution relative to the budget.
>
> Nevertheless, the conflicting provisions of the code violate concepts of good administration and do create a situation in which there is diffusion of responsibility and where serious controversies as to authority could arise. For this reason some of the chief areas of conflicting authority are commented upon in the following sections:
>
> The Division of Beaches and Parks is made a part of the Department of Natural Resources by Section 504 of the Public Resources Code.* Sections 512 and 513 specifically give the department authority over the officers, records, funds, etc , of all divisions within its structure. (These are based on Section 373g of the Political Code, now repealed and replaced by the Government Code).
>
> Power to appoint the chief of the division, upon nomination by the commission, is afforded the director of the department by Section 506, while Section 509 gives the director the power to fix the salary of the chief (with the approval of the Governor). This would indicate that while the department has limited discretion in appointment of the chief, it has the power to discharge him. However, for practical purposes, the chief is appointed by the commis-

[1] *Survey of Organization and Processes of the Division of Beaches and Parks With Statutory Basis and Recommendation for Change,* January 15, 1959 , See Appendix A, page 67

* All code references are to the Public Resources Code unless indicated otherwise.

sion as its one constitutionally allowed position which is exempt from the provisions of civil service This not only appears to be contrary to the intent of the law which establishes the position as an appointee of the director, but also presents an interesting conjecture as to what would be the status of the chief's appointment should the director attempt to discharge him, under his legal authority as the appointing power. The fact that the chief administrative office of the director in this area of responsibility is immediately responsible to the commission cannot help but confuse and divide administrative authority.

There is conflict in the code as to which body shall control the State Park System. Section 5001 gives control of parks to the department, but through the commission. The commission, by nature of its appointment (four-year staggered terms), and by virtue of the powers vested in it by law, is virtually independent of the Department of Natural Resources. These powers given to the commission tend largely to nullify any control the department might have over the park system. Section 506 provides that the commission shall make the policies for the administration, protection and development of the State Park System These general powers are reiterated and expanded in Section 5003, which also gives the commission (without reference to either the division or the department) the power to expend all moneys of the commission from whatever source derived, for the care, protection, supervision, extension and improvement or development of the State Park System.

This section further provides that the commission shall make the rules and regulations for the government of the system. These powers, coupled with the appointment by the commission of the exempt position of chief of the division give it almost complete control of the park system

The administrative authority of the commission is well established in the sections of the code which follow Section 5003. All the powers necessary to administer the park system are conferred specifically upon the commission, except in two or three notable instances. Examples of the administrative authority conferred upon the commission are:

1. Power to acquire title to real property, either by purchase or condemnation. (5006)
2. Right to confer on park employees peace officer powers for state parks (5009)
3. Collect fees, rental and other returns for the use of any state park area. (5009)

An apparent conflict also exists over the lease authority granted to the commission to lease outside properties for park purposes. Any lease under $1,000 per year may be made by the commission without the approval of the Department of Finance. This section conflicts with Section 5060 which gives the lease authority to the department acting through the commission. In neither Section 5006.5 nor 5060 is there any reference to the division. Sections 5061, 5062 and 5063 outline terms and conditions under which the department may lease outside property for park purposes. These

conditions are different from those which are outlined in Section 5006.5.

These conflicts have been recognized by the Department of Finance,[2] the Director of the Department of Natural Resources,[3] and amply demonstrated by testimony submitted at the hearings of the subcommittee. This confusion of authority and responsibility has resulted in defective administrative practices causing inefficiency, low morale, and great financial loss to the State. Weakness in administrative organization and process have produced detailed reports recommending changes in administration and process by the Department of Finance,[4] the Legislative Analyst,[5] and the Director of the Department of Natural Resources in response to Senate Resolution No. 28 [6]

The detailed recommendations contained in these studies follow accepted principles of administration and process that normally could be expected in an agency with clear legislative policy and appropriate lines of authority and responsibility.

A comparison of the three legislative proposals submitted by the Departments of Finance and Natural Resources and the Legislative Analyst are contained in the analyst's report to the subcommittee reproduced in the Appendix, page 67 All three have as their purpose the following.

1. Adjustment of existing conflicts in the codes.
2. Reaffirmment of the commission as the policy-making agency for the division and the director.
3. Clarification of code sections of a nonsubstantive nature.

The difficulty with these proposals is the clarification and the detailing within the code of the very policy powers to which this committee strongly objects after six years of investigation. These proposals would in no way affect the present deficiencies in acquisition and development the developmental policies of the commission that prevent multiple use of recreation and park areas, or the park concept which looks upon recreation as a thing apart and as a responsibility of local agencies. During the past six years the commission has maintained and strengthened these policies in spite of legislative pressure to bring the park program more in line with present recreation needs. Conflicts between the Legislature and the Park Commission were reviewed in the 1957 report of this subcommittee.[7] Failure of the commission to adjust policy in line with these recommendations is evident from the hearings held during the last interim which will be reviewed in succeeding sections of this report.

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[2] Organization and Cost Control Division, *Management Survey for the Department of Natural Resources, Division of Beaches and Parks, Legal Relationships*, Survey 877. January 24, 1958, p 2

[3] "Revision of Provisions of Public Resources Code Relative to the State Park System," October 20, 1958.

[4] Organization and Cost Control Division, *Management Survey for the Department of Natural Resources, Division of Beaches and Parks, Administrative Structure*, Survey 877, December 3, 1958

[5] *Survey of Organization and Processes of the Division of Beaches and Parks*, Appendix A

[6] *Report and Recommendations of the Director of Natural Resources in Response to Senate Resolution No. 28*, March 5, 1958.

[7] *A Statewide Park and Recreation Program*, Vol. 13, No 12, March, 1957

Integration of the Commission and the Division Into the Department of Natural Resources

Since the subcommittee recognizes that consolidation of the recreation function in a division or department is the final solution, reorganization of the commission and the division at this time should be in accordance with sound principles that will furnish a proper pattern for eventual consolidation. These principles have been well-stated in a recent study by the Department of Finance:[8]

> Executive control of administration by chief executives is a central element in responsible government. Some standards and principles which have evolved to measure the soundness of management practices are:
>
> 1. The chief executive (Governor) should have clear authority to direct the operations of his departments
> 2. The chief executive should have reasonably few departments under his immediate direction.
> 3. Similar functions should be combined into one agency.
> 4. Departments should have control over divisions within their departments.
> 5. Boards and commissions should not be given administrative functions.

In line with these principles, reorganization of the recreation function should be designed to provide clear channels of command from the Governor through the director of the department, or to the chief of the division. The number of boards and commissions now controlling both policy and administration should be reduced or combined into a single agency and should be divested of all managerial and administrative responsibilities. This single park and recreation commission should operate in an advisory capacity to the director of the department, or the chief of the division, if division status is determined for the function.

Assembly Bills Nos. 85 and 720 providing for the full integration of the commission and the division into the Department of Natural Resources will meet these basic principles of sound administration and not complicate the final consolidation of the recreation function.

1. Assembly Bill No 720

a. Transfers the powers and duties of the State Park Commission to the Department of Natural Resources by simple amendments substituting department for commission in appropriate sections.
b. Provides that the commission shall consult with and advise with the director and the Chief of the Division of Parks and Recreation in connection with the administration, protection and development of the State Park System.
c. Requires the department on appropriation of planning funds to prepare planning and economic studies on proposed park areas to feasibility standards as the basis of legislative authorization and appropriation.

[8] Survey 877, op cit, page 3

d. Provides technical and clarifying amendments of a nonsubstantive nature.

2. *Assembly Bill No. 85*

a. Removes the commission's authority to nominate the chief of the division.
b. Provides for appointment of the chief of the division by the Governor.
c. Provides that the chief serve at the pleasure of the director who fixes his salary and duties.

These measures meet the criteria of sound management:

1. *Authority and responsibility for the park and recreation program should be vested in the Director of Natural Resources.*

Complete departmental authority and responsibility for the planning, acquisition, development and administration of park and recreation programs is granted the director. The clear language of the legislation will allow the Governor, the Legislature and the people to look to a single position as responsible for results in accordance with general public policy as expressed by the people through the Legislature.

2. *The chief of the division should be in the direct line of authority from the Governor through the director.*

The critical position of this key responsibility for meeting California's recreation crisis requires the Governor's concern that the position be properly filled. Provisions of the legislation admit this public interest but clearly establish the responsibility of the director by granting him the power to remove and set the salary of the chief.

3. *The State Park Commission should be granted only advisory powers.*

One of the greatest problems faced in governmental reorganization at all levels is the existence of strong boards and commissions administering single functions beyond the reach of the people through their legislative representatives. Commission government began when legislatures were in ill repute, when controversial functions were instituted or when public interest required continuing regard for a single function of great general welfare. As functions moved out of controversy, as legislative bodies have proved their responsibility, and as the concepts of line and staff have become accepted, commissions have been removed in governmental integration or placed in an advisory position.

The Park Commission as the managerial and policy arm in this function has served its purpose. Policies once important to the creation of the state system now refuse to give way to broader concepts of planned park and recreation uses based on sound principles of land characteristics and capacities for multiple use. Inevitably the commission has depended upon the division for alternate solutions to difficult problems, and as with other commissions and boards the executive branch has determined and administered policy. Thus, as in all commission government, the commission is the prisoner of the staff which, not directly responsible to the director, presents the facts upon which policy is decided.

There remains, however, a distinct need for an advisory body in this critical field of state responsibility. A strong commission in an advisory position removed from policy formation and administration would be free to help formulate a statewide plan of parks and recreation. The department will need such help in the fields of jurisdictional responsibility, recreation principles and standards. A wise director would find the commission invaluable as a sounding board for public opinion, as a hearing board for reports and feasibility studies and as a recommending agency on priorities of development. Without doubt the advice and counsel of such an agency would be recognized by the public, the Governor and the Legislature. Under present organization and structure, however, the commission is constantly under fire by local governments, other state agencies and the Legislature. The pressing park and recreation problems go unanswered while the controversy rages. The department can't reach the commission, and the division staff reports to three administrative masters—the director, the commission, and the division chief—while the Legislature finds its function of policy formation pre-empted in the field of parks and recreation.

4. *The Legislature should be presented the facts by the responsible executive agency regarding any appropriation in order to exercise its responsibility to the people.*

During the last two sessions of the Legislature, hundreds of park purchase and development measures were introduced. This subcommittee refused to consider bills that were not covered in the *Five-year Master Plan* submitted by the Park Commission, or measures calling for acquisition of areas on which the Division of Beaches and Parks had not made a favorable report. In this fashion, log-rolling was kept under reasonable control. Assembly Bill No. 720 will continue this control by requiring cost and benefit reports based on site development plans prior to appropriation for acquisition and development. With such facts before it, the Legislature will be in a position to choose intelligently between areas competing for the recreation dollar The responsibility for the expenditure of state funds in this important area will thus be returned to the legislative branch. Additional discussion of this important measure is found in the sections that follow.

It is the conclusion of the subcommittee that Assembly Bills Nos. 85 and 720 are sound administratively, that they provide integration of the division and the commission into the Department of Natural Resources in such a fashion as not to hinder the final consolidation of the recreation function, and that they return to the Legislature its legitimate responsibility to authorize and finance park and recreation developments based on sound plans with full knowledge of the resulting costs and benefits.

ACQUISITION

Acquisition programs authorized by the legislature in appropriations of 1956, '57, and '58 are stalemated by long-held policies of the commission regarding extended negotiations and delayed condemnations.

Delays, even with currently expedited programs and improved procedure, extend the purchase period to over one year. In the meantime, prices have risen both under the competition of other land uses and the acquisition program of the division to a point where the original appropriation, even when accurately related to true costs, is inadequate to purchase the designated area.

Such factors as public reaction against the total park program, inconsistency of condemnation in the face of the high moral and spiritual values of present park policy appear to the commission and those responsible in the division to out-weigh the use of the normal tools available in the acquisition process These policies, in conflict with the interests of the State, are pricing designated recreation areas beyond the financial reach of the people. The refusal of the commission during the past six years to change these long-held policies in the face of legislative recommendations indicates its unwillingness to direct an expedited land purchase and development program.

The concern of the subcommittee over the financial loss to the State and the delay in meeting existing demand for recreation areas resulted in four hearings during the interim on acquisition process and policy. In addition, the Legislative Analyst was requested to evaluate present acquisition processes for committee use and to prepare a report on park system financing.[1] Both of these reports are included in the appendix. The Auditor General prepared a detailed study of the expenditure program of the commission with schedules indicating the status of all projects from 1945 to June 30, 1958, available, on request from his office.[2] These studies and the hearings of the committee, which will be reviewed briefly in this report result in two inescapable conclusions:

1. The present acquisition load given the commission and its division is too great for this agency to handle effectively and efficiently. Indeed, it may be too much for any single agency to assume without enlisting the co-ordinated effort of much of the available state talent.

2. The policies of the commission were developed during the matching-fund days when dealing with large sums of donated monies and land and highly sensitive situations where low appraisals on donated land in a matching arrangement might permit the acquisition of a redwood grove of immeasurable social value. These policies, strongly ingrained, prevented the agency from moving with vigor on a crash program of acquisition—utilizing the full power of the State and all the trade tools.

Acquisition Policy

Long-held policies of the commission and its division favor extended negotiation with condemnation only as a last resort as necessary to protect all facets of the "park principle."

Assemblyman Miller. In what aspects do you think that your situation of acqusition of property for the State is more delicate than that of the Department of Public Works.

[1] *See Preliminary Report on the Acquisition Process of the Division of Beaches and Parks*, Appendix B, page 139 See also *State Park System Financing*, Appendix C, page 155

[2] Auditor General, *Division of Beaches and Parks of the Department of Natural Resources, Property Acquisitions From the Period From July 1, 1945, to June 30, 1958-November 20, 1958.*

Mr. Drury: I think the more diversified character of our projects for one thing I think that the fact that highway right-of-way is for a definite established line where there's no slighest question. The public interest has decreed that this highway should go on that line and they hue to that line. We have to be a little more flexible in our dealings with owners, particularly the resident owners of property

Assemblyman Miller. Well, the highway does business with resident owners; and when they file a declaration of taking in respect to the condemnation action, they're moving homes, too, just like you are, aren't they?

Mr Drury: They are and there's a very good deal of emnity in so doing which we feel we should minimize. Furthermore, we're in the, what you might call, the cultural activity, the establishment of natural, scenic, biological, recreational and historic reserves, and all of our negotiators have to have a background of understanding of the purpose of the State park System. They have to be able to impart that to the people with whom they're dealing That's what I mean when I say that our negotiations are perhaps a little more delicate.

Assemblyman Miller: You are aware of the fact, I assume, that in any acquisition that's negotiated, that during the period of negotiation land values usually do increase during that negotiating period.

Mr Drury: We are acutely aware of that, Mr. Miller.

Assemblyman Miller: And you are also aware of the fact that on the filing of condemnation action that you pretty well set your land value as the time of filing your declaration of taking.

Mr. Drury: If you can come to trial within a year, yes.

Assemblyman Miller· And you feel the delicateness of this thing outweighs the fact that the State might well be losing many thousands of dollars in increased values?

Mr Drury: No, we are very much concerned about that problem, and that's one reason that we urged that the Attorney General's Office be given more help. No, we were fully aware of the loss to the State from lapse of time and I have seen cases where values have increased 10, 12 fold—properties on which 25 years ago we had an option for which we didn't have the money which later we had to purchase at enhanced values—beach property, properties up in the redwoods, elsewhere (Subcommittee Hearing Transcript of Proceedings, March 26, 1958, committee files, pages 27 and 28.)

Chairman Unruh. You think that condemnation actions result in adverse public reaction?

Mr Drury· I don't think there's any question about it That is, particularly in some circles. I think there's some communities where they're not accustomed to legal procedure, matters of that sort, where they look upon it as a hostile act and it takes a lot of diplomacy to convince them that condemnation is really an orderly way of adjudicating fair market value

Chairman Unruh: Do you think this same reaction results from condemnation proceedings of other state agencies? You seem much less reluctant to——

Mr. Drury: I think it would from what I've observed. I'm more familiar with park negotiations than I am with highways or other agencies.

Chairman Unruh: These agencies seem much less reluctant to resort to condemnation than your division does, Mr. Drury.

Mr. Drury: Yes, they do Over the years, of course, I've noted that and commented on it. I think one reason is that our relationship in the state parks with the community surrounding them is somewhat different from the relationship of most public works. When we establish a state park, we're part of the community, we're there to stay. It doesn't help the administration of the park or its protection or the relationships of the State Government to it, for us to have aroused undue hostility. It is part of our duty to maintain a friendly and amicable and co-operative relationship with the people of the communities surrounding the parks.

Chairman Unruh: Is this your own evaluation, Mr. Drury, or instructions from the Park Commission or your interpretation of the instructions from the Legislature?

Mr. Drury: Well, everything I do, Mr. Chairman, is based on the will of either the Director of Natural Resources or of the State Park Commission insofar as I can ascertain it; and when I can't ascertain it, I find out.

Chairman Unruh: What are the State Park Commission's instructions to you in regard to use of condemnation actions?

Mr. Drury: The general attitude that they've taken over all the years that I've been associated with them is one of reluctance to condemn except as a last resort. As an example of that, in our commission meetings there are a great many routine items on the agenda which are rather rapidly dealt with by the commission. But to my recollection, they never have dealt with any condemnation action except after due deliberation and the proper showing by the staff that they have exhausted the possibilities of negotiation and that condemnation is the last resort (Transcript of Proceedings, March 26, 1958, committee files, pages 12 and 13)

Mr. Powell: And, of course, those negotiations carry on and on and on. Negotiations are conducted mainly by our negotiators by trying to sell our program with the least commotion possible and without antagonizing the owner if possible We believe that if a parcel can be negotiated and we leave friends behind us that the State in general has benefited We believe that if we move in and lay an offer before the man, the man declines it and we say all right, then we'll place you under condemnation, that it doesn't give the man time to consider the situation and as a rule by so doing it takes a little more time in negotiating We find that we can negotiate these without having to resort to a court adjudication. When the negotiator has failed to negotiate and every reasonable offer has been made to the owner that we believe to be a reasonable offer—after all, these appraisals are set up as a guide to us, they do not

establish the value but they're set up as a guide to us—when the negotiator reports that he has failed and he's had an absolute rejection and so on, then the supervisor of that office, whether it may be north or south, one of the seniors, will make his recommendations as to whether we should go into condemnation or whether he would recommend that we pay a little over the appraised value to avoid condemnation. Anyway he makes his recommendation. The recommendation comes to my desk and I, as the supervisor, review it and consider the program as a whole and consider can we come out on top by paying a little more or going to condemnation or has this negotiator used every means at hand to resolve a problem, to negotiate or convince the owner. And quite often I send these back to the seniors and ask them to negotiate a little further, offer some suggestions, or even direct them to settle something in excess of the appraisal. (Transcript of Proceedings, November 24 and 25, committee files, page 68.)

Assemblyman Sumner: Isn't the difference between your philosophy and that of the Department of Public Works found in that fact that they feel that you should attempt to acquire the property. If you can't preliminarily, that you file a condemnation action freezing the value; you continue to negotiate, and failing in that you go to trial. And you folks feel that you should not bring the matter to trial, that you should negotiate and continue to negotiate until you feel that it's absolutely hopeless * * *

Mr. Drury: That's right, we feel that every possibility of amicable negotiations should be exhausted before we recommend condemnation.

Assemblyman Sumner: How would you feel about turning over the property acquisition section or function of your division to an agency such as the Department of Public Works?

Mr. Drury: I don't think it would work satisfactorily.

Assemblyman Sumner: Why?

Mr. Drury: Because I don't think they would have the intimate knowledge of the problems involved in parks Our negotiators have to be park men, they have to be able to explain to the owners why it's so necessary for the State of California to have their property as a part of a state park, and what would be done with it, how it would be developed and all of the attendant questions ——

Assemblyman Sumner: In your consideration of the feelings of the owners, do you also in the same manner consider the effect upon the taxpayers of the State? For example, again let's take the Tin Can Beach area where that property and adjacent areas are not up as high as $1,500 a front foot as it is down in Newport Beach, but this area is close by and skyrocketing in value, and all this time the land value is going up and there is no action filed to freeze it. * * * We're interested and they're interested and, of course, probably from their standpoint what they're really interested in is watching the value go up and up and up until the State finally files the action. Now this is going on all over the State.

Mr. Drury: I still maintain that the method of negotiation with the owners of property before wresting it from them through emi-

nent domain procedures is the one that the people of the State of California would expect of the State Park Commission in this type of a program. (Transcript of Proceedings, November 24th and 25th, committee files, pages 50 and 51.)

Additional Costs to the State

The acquisition policy of the commission and the division has resulted in costly delays in the purchase and development of authorized recreation areas.

Mr. Powell: Your question to me is have I taken proper legal steps to freeze the value of land immediately upon activation of the project.

Assemblyman Hegland: Yes.

Mr Powell · I have not as an individual, or we have not as a division, taken advantage of that legal ——

Assemblyman Hegland. All right, then why is public relations more important for beaches and parks than it is for our hundreds of school districts in our State which have to do that regularly whether number 10 passed or not?

Mr. Powell: Well again, it isn't entirely public relations. We can freeze the property for one year. We can freeze the value for one year and that is all.

Assemblyman Hegland: I was assured during these discussions that you could wrap up almost any land condemnation suit in a year. Now haven't you been able to do that after you did turn it over to the Attorney General's Office?

Mr. Powell · No.

Assemblyman Hegland: Now we'll skip that and my next question is, as an outsider on this committee I don't want to pursue that, but if our school districts and our municipalities and our airports and every other governmental agency is able to I don't see why we're not able to here. Now I have a note here which says that you did write a memorandum on October 6, 1952, that you instructed the land men under you to, quote "reduce the number of condemnations even though it will cost the State more money in the long run." End quote. Did you write such a memorandum?

Mr. Powell: I rather think that I did. I seem to recall such a memorandum It is a policy of ours * * *

Assemblyman Hegland: My question is why should we, for beaches and parks, reduce the number of condemnations even though it will cost the State more money in the long run?

Mr Powell: If I recall the letter, that was done encouraging the men, rather than recommending condemnation immediately upon failure to negotiate, to settle for something in excess of the low appraisal. We had better pay a higher price and get it behind us and get the property acquired rather than go through the slow process of condemnation because they are a few percentage points off on value. (Transcript of Proceedings, November 24th and 25th, committe files, pages 91 and 92.)

Mr. Drury. That's true. Once in a great while we buy a property below the low appraisal. But usually it's well above the low ap-

praisal and sometimes in the neighborhood of the high appraisal. I repeat, these appraisals are simply evidence on the basis of which those who have the responsibility have to determine whether it's in the public interest to buy a given property at a given price.

Assemblyman Sumner. But you will admit that by filing a condemnation action that you freeze the value.

Mr. Drury: That's the generally understood fact.

Assemblyman Sumner: This is the law, however; is it not?

Mr. Drury: That's right. The law prescribes that.

Assemblyman Sumner: Therefore, when you fail to file a condemnation action if the surrounding property is going up in value and if the property itself is going up in value, if you later file a condemnation action it freezes it at the later value. Isn't that right? (Transcript of Proceedings, November 24th and 25th, committee files, page 53.)

Chairman Unruh: Mr. Hennessey, are you familiar enough with the operations up here prior to the time you came up to hazard a guess as to why the final figures paid for the projects acquired are substantially higher than the low appraisals as contrasted to those in the South?

Mr. Hennessey: Well, my only guess would be ——

Chairman Unruh: Would you say it was because of, trying to narrow it down here some so you don't have to hazard a guess, could it be because of a lack of acquiring competent appraisers?

Mr. Hennessey (John Hennessey, Sr., Lands Acquisition Officer): It could be that, and it could be that the negotiators were not as good as they could be. It could be a matter of policy, that you establish a policy whereby you pay over the low.

Assemblyman Lindsay: Would he say that an award of $99,000 over the low appraisal of $37,000 would indicate that the low appraisal was too low?

Mr. Hennessey: No, I would say that it's a matter that should be appealed. I would say that it was a case where the jury just went clear off base and it should have been appealed.

Assemblyman Lindsay: Same with $80,000 over $45,000?

Mr. Hennessey: Both those cases I'm familiar with, sir.

Assemblyman Lindsay: But 28 over 25 is all right.

Mr. Hennessey: Yes.

Assemblyman Lindsay: And 12 over 10 is all right.

Mr. Hennessey: Yes.——

Chairman Unruh: Mr. Hennessey: Do you consider condemnation as an arm or lever in your negotiations?

Mr. Hennessey: I very definitely do. I consider it a very strong arm. In other words we find this in the overaverage and I think this is true of any public agency that has the power of condemnation that you close possibly 90 percent of your property at or around your appraised price; the other 10 percent goes into condemnation, and out of that 10 parcels, let us say, you will close 7

of them before you get on the court house steps. (Transcript of Proceedings, March 25, 1958, committee files, pages 77 and 78.)

Assemblyman Sumner: Don't you feel that this Clear Lake one is just an exact case in point where we stipulated to an award, apparently they felt that the case was lost and that we had to give this $28,500 even though the appraised value was originally $13,000.

Mr. Drury: Well, there are many reasons why those cases lag, and I don't know the circumstances. We'd have to go into the history of it. But whatever the reason, there's no question about it that the valuations did go up during the period and it's to be regretted, of course; and insofar as it's humanly possible we try to minimize that lag. We're fully aware of the danger of prolonging these cases, and we've had to pay through the nose sometimes because of a lapse of time. But with such a tremendous program there are only so many transactions that so many people can carry out in a given time.

Chairman Unruh: Mr. Drury, it's my intention tomorrow to introduce a joint resolution into the Legislature directing the Division of Beaches and Parks to proceed with condemnation actions forthwith. If such resolution is passed by both Houses of the Legislature, what weight would this carry in your determinations of this matter?

Mr. Drury: Well, of course, it wouldn't be my determination. The State Park Commission is the agency that decrees whether it shall or shall not condemn; but of course, any resolution of the Legislature carries a great deal of weight, both with the Department and the Park Commission.

Chairman Unruh: If the State Park Commission determines that they are going to pay no attention to this, I assume that you would consider that your loyalty is to the State Park Commission and as such you would be forced to go along with the policy of ignoring the wishes of the Legislature.

Mr. Drury: As chief of the division, I have no authority to file condemnation. That's the process which is——

Chairman Unruh: You have the authority to recommend to the commission, however, when those condemnation proceedings shall be filed. Have they ever refused to pass a condemnation resolution when you suggested such?

Mr. Drury: Yes, there have been cases where they have deferred it for a considerable time in quite a few cases, and perhaps there are cases where they never went to condemnation——

Assemblyman Sumner: According to your report, the Carmel River Beach with a defendant Allen in Monterey County went, finally, to a court award of $99,062 with a low appraisal of $37,000 and a high appraisal of $39,000. And the date on that was April 16. However, in the footnote, it indicates that the appraisal—now that date of the award was '54 in April—according to your footnote here the appraisals in March of 1950 were $16,000 low and $18,000 high. In other words, the apraisals went from $16,000

low, $18,000 high to $37,000 low and $39,000 high. And then they climbed to August of '51 when they valued the property at $29,000 and $30,000. Now you're aware of the fact, aren't you, Mr. Drury, that when you file a condemnation action that you more or less freeze the date at which the court will allow the property to be appraised at, and therefore there is some reason for filing a condemnation suit.

Mr. Drury: Isn't it true that you've got to refile if more than a year has elapsed?

Assemblyman Sumner: Yes, this is true. But isn't one year enough time in which to bring the case to trial?

Mr. Drury: It should be. I'm very familiar with that Carmel Beach case. In my opinion it was an excessive award, but perhaps that's in contempt of court——

Assemblyman Sumner: The action was filed, in that case, in 1952. You received your first appraisal in 1950 so, just as was testified to last night, this two-year negotiation resulted in a terrific increase in value. Also in the Carmel Beach area under defendant Burnett, there the court award came to $80,213, and that was rendered in November of '53. And according to your footnote here, the '49 appraisals, so apparently as early as '49 the property was appraised $22,000 low and $25,000 high, and by the delay the State paid $80,000.

Mr. Drury: That's right.

Assemblyman Sumner: We have one more here. Also in the Carmel area with the defendant Riley, the action was filed in '52, stipulated judgment in that case. In other words, the State agreed to a judgment, feeling apparently that this was fair, $34,500; and the footnote here would indicate that the 1951 appraisals were $15,000 low and $15,100 high. Apparently this was pretty well defined Since we stipulated to $34,000, wouldn't that seem to prove the point conclusively that there is a great deal of merit in using the same procedures that are used by the Department of Public Works where, at least in my case down in Southern California and the cases I've seen as a private lawyer, they file these actions, bang, and then they talk about it and they freeze the value on it so you don't have a chance to have the property bid up. (Transcript of Proceedings, March 26, 1958, committee files, pages 55-57.)

Deteriorating Local Relationships

Transcripts of hearings held during the past four years carry much testimony on dissatisfaction of local agencies with commission policy. Concern of local government centers on three points:

1. Delay in acquisition is increasing purchase costs beyond appropriations and threatening locally endorsed park and recreation programs.

2. Park commission changes in acquisition and development plans have been made without local approval.

3. Delay in acquisition following the appropriation of funds has resulted in loss to property owners.

My name is Willis H. Miller, and I am Director of Planning for San Diego County. I am speaking for San Diego County by direction of the Board of Supervisors. * * *

San Diego County is genuinely concerned about delay in spending money allocated for land acquisition for state parks. Our concern is because the longer acquisition is postponed, the less land can be acquired with allocated funds. Month by month land prices increase, and once-vacant properties are built up. The San Diego County Board of Supervisors has requested prompt action in this field, and has offered full co-operation and assistance. Of particular concern are the $650,000 for land acquisition at Imperial Beach and the $100,000 for land acquisition at Moonlight Beach allocated by the "Five-year Program" approved by the State Park Commission in 1956. To date, none of this money has been spent, and a Moonlight Beach land acquisition plan which differs from that recommended by San Diego County was approved without discussing the proposed changes with the county.

Of equal concern to San Diego County is our inability to get action on spending the $409,000 specifically appropriated by Chapter 2381, Statutes of 1957, "* * * for the acquisition and development of state beaches in San Diego County, pursuant to plans to be mutually agreed upon by the State Park Commission and the Board of Supervisors of San Diego County." The board of supervisors has recommended to the State Park Commission specific parcels of beach land which it considers appropriate for acquisition with these funds. To date we have not even been able to arrange a conference on that matter. (Subcommittee Hearing, Transcript of Proceedings, November 24, 1958, committee files page 60.)

Mr. McLaughlin: (Francis M. McLaughlin, Deputy to Supervisor Chase) Before I make any comment, Madam Chairman, I think while I appear with the permission of the board of supervisors (County of Los Angeles), primarily I appear as a representative of the chairman of the board. The comments I make are based on my experience in the past five years dealing with the commission on legislative matters, also as the official representative of the City of Santa Monica.

I think the basic problem that we have are the interminable time lags between the time that you people appropriate and the time that acquisition or appraisals even are begun. I think this has been pointed out in the past—all day yesterday—is a twofold damaging thing. Particularly in a metropolitan county, property values are skyrocketing as any of the Los Angeles Assemblymen can tell you, having gotten their tax bills just recently, but also it's a great hardship on a property owner. You make an announcement that the Legislature is going to buy or has approved an appropriation for a park or a beach in a certain area, you immediately put a

blight on the property. The man doesn't know exactly when his property is going to be acquired It's difficult for him to finance it if he wants to develop it I think this can be best illustrated by two projects in our area. One was Point DuMay State Beach Park. This was approved by the Legislature in 1957 and an appropriation of $800,000 to acquire the land. It should be explained that there developed a difference of opinion between the commission and the county relative to the size of the project. The commission felt the project should encompass the entire beach area and all of the upland area Now parenthetically I might explain here that $800,000 will not buy even all of the beach area so the inclusion of the upland area was academic and the board of supervisors felt that it was unfair to the people in this area to include it when it was obvious there would be no money at least for 5 to 10 years ever to acquire it. This difference was resolved and on July 26, 1957, the commission approved the county plan at their meeting and ordered their staff to begin acquisition; but it was not until January 20, 1958, which is a difference of about six months, that the Los Angeles office of the division received instructions from Sacramento to begin their appraisals and acquisition. I can point out the hardships, and in a six-month period in the Malibu area property values have increased I would say at a minimum of 15 percent or better * * * (Transcript of Proceedings, November 24 and 25, 1958, Committee Files, pages 7 and 8)

Assemblyman Unruh Let me ask you what happened on the Santa Monica Beach properties that Mr McLaughlin testified on before Why was the master plan which was submitted by the City of Santa Monica and the board of supervisors and approved by the State Park Commission later on changed without the knowledge of either of the local bodies?

Mr Hennessey: That's a very difficult question for me to answer as to why it was changed That's a matter that comes within the prerogative of Mr Robert Hatch However, I do know that I sent memos up north, I have a complete record of the Santa Monica Beach on the 1957 *Omnibus* Bill and it shows that I sent memos up north calling their attention to the fact that the city wanted the property acquired solidly between the Ocean Park and the Santa Monica Pier and I have always understood there was a complete understanding on that When the maps were sent to us after the October 17th meeting of this year and I received a call from the City of Santa Monica, they wanted to see the maps, and when I brought them down, why they blew their tops

Assemblyman Unruh Because they were different

Mr. Hennessey: They're entirely different As I understand it they considered it a breach of faith because under the agreement they were to buy solid in accordance with these plans as approved by the City of Santa Monica, Mr. Drury and the State Park Commission.

Assemblyman Unruh: What would you have recommended; is it sound procedure to hedge-hop around and pick up a parcel here

and a parcel there or would it have been sounder to buy solidly as far as the money would go?

Mr. Hennessey: Let me answer that question in two ways and I'll also take care of Assemblyman Collier's question. When we originally started buying the property along the coast of California under Chapter 1422 of 1945, our instructions were to buy only vacant property. That is how, at that time, we bought just certain areas, vacant lots in between. However, under the $2,000,000 that was appropriated in 1957 it was my understanding it was to be in conformity with the City of Santa Monica's idea of putting in this parking lot from Ocean Park Pier to Santa Monica back to the so-called speedway. It is not a good idea in this case to buy irregularly because in doing that you enhance the value of the other property and of properties in that area are going up in value.

Assemblyman Unruh: What will it cost now to acquire that property? Would $2,000,000 acquire that property?

Mr. Hennessey: No, sir, it will not.

Assemblyman Unruh: How much of it will it acquire?

Mr. Hennessey: Well, all I can tell you is that we have about nine parcels under condemnation right now under the old appropriation. We just had an appraisal completed and it reveals an enhancement in value of 25 percent per parcel. (Transcript of Proceedings, November 24 and 25, 1958, Committee Files, pages 31 and 32.)

Heavy Acquisition Load

The present acquisition load of the Division of Beaches and Parks is too great for this agency to handle efficiently. This conclusion is independent of policy and procedural complications discussed in previous sections and is related solely to the normal bureaucratic difficulty of staffing, training and directing the personnel necessary to handle such a crash program. These problems are well summarized in a memorandum by E. A. Aronstein, department administrative officer to Director DeWitt Nelson: [3]

> The recent large appropriations for new park acquisitions present to the department and the division a challenge of the highest order. The program will require that a total of between four and five thousand parcels be acquired within the next four years. This means that between 1,000 and 1,250 acquisitions must be completed annually; 5 a day, 110 a month.
>
> Measured against accomplishments of the 1956-57 Fiscal Year this represents a very large increase. During the 1956-57 Fiscal Year the Los Angeles office completed 65 acquisitions and the Sacramento office 74 acquisitions for a total of 139 completed acquisitions. The Los Angeles office had completed negotiations and placed in escrow an additional 21 parcels. Also 22 parcels contained in four condemnation suits had been acquired by stipulation in that year. However, of these 22 none had originated during the 1956-57 Fiscal Year. Information regarding uncompleted acquisitions was

[3] "Review of Park Acquisition Program and Procedure," August 29, 1957; see Appendix D, page 196, for the full memorandum which is included as support for the findings of this report

not available for the Sacramento office. A total of two acquisitions was completed as a result of condemnation actions during the 1956-57 Fiscal Year This is a fractional percentage of the total acquisitions—— * * *

Based on acquisitions completed during the 1956-57 Fiscal Year simple arithmetic leads one to the conclusion that at the rate of accomplishment during that year it would take us 32 years to complete the present park acquisition program.

In order to ascertain whether or not additional staffing is necessary to accelerate our program or whether our problem lies elsewhere I obtained data from the Highway Division as to the average annual output per negotiators. They advised that the annual average production per man year was 220 parcels. The average annual output in the Division of Beaches and Parks was 13 parcels per man year. Both of these figures exclude top supervision. It is conceded that both the type of acquisition and the particular methods involved differ as between the two divisions. Nevertheless it would appear that the contrast is much too great.

From the above comments a number of deductions may be made:

1. The total number of annual acquisitions must be increased almost tenfold for the division to meet the goal set by its five-year program and by subsequent legislation.
2. The average transactions completed per man year appears too low.
3. In many instances prices at which parcels are negotiated are too high.
4. Of the total number of acquisitions completed too few are a result of condemnation action.
5. There is too great a time lag between the date the resolution of the commission is adopted and the condemnation action is filed.

No single solution to all of these problems appears at hand. By far the most important problem from the public relations point of view is the obligation we have to complete the acquisition program within the prescribed period. The 1958-59 Fiscal Year budget request carries a request for four new positions in the Land Acquisition Section. This added to the two positions requested for the 1957-58 Fiscal Year would give the aquisition section a total of 26 persons excluding top supervision and stenographic help. It is obvious that at the current rate of completing acquisitions this staff is still far too small to accomplish the desired results. The contrast in the output per man-year between the Division of Highways and the Division of Beaches and Parks forces me to urge that an immediate study be made of the procedures in vogue in the latter division. I have been advised by competent authority that even under the conditions under which this division must operate it is not too much to expect one man to complete 10 projects a month provided that the procedures are adequately streamlined. If such a study discloses that our procedures are satisfactory, additional personnel should be sought

Transfer of Acquisition to Department of Finance

Present policies of the commission have been incorporated into the highly technical acquisition process with resulting delay in purchase programs and high cost to the State. The previous sections of this report document the conflicts of the commission with local agencies and with the Legislature over the division's acquisition program. These conflicts will continue until the normal operating activities of the division are divorced from those of acquisition.

Staffing the division to handle the present temporary but heavy purchase program would be inefficient. The crises in this program, however, requires an immediate solution. The subcommittee recommends that the acquisition program be transferred to a new division, in the Department of Finance, together with all agency acquisition other than those of the Division of Highways. This department, functioning as a service unit, would be in a better position both by philosophy and present responsibilities to protect the interests of the State than the many agencies currently handling small and heterogeneous purchase programs. The following recommendation of the Legislative Analyst is based on a detailed review of the division's acquisition process, interviews with real estate purchasing officers for large financial institutions, land agents in state service, and long working experience with fiscal policy and programs.[4]

> The acquisition activities together with the title review function and the writing of concession agreements are technical real estate functions, which could be performed more effectively by a central unit acting for all state agencies, excepting, perhaps, the Division of Highways.
>
> This central unit should be a part of some larger agency such as the Department of Finance. Its services could be co-ordinated through a liaison position within each client agency. This liaison position should be filled by a professionally qualified land agent who can interpret the client's policies to the central agency and can perform the review function on behalf of the client. In the Division of Beaches and Parks, this function could be performed satisfactorily by an associate state land agent or equivalent.

Much testimony was submitted at subcommittee hearings supporting the consolidation of state acquisition in a single agency. While support was primarily related to the problems faced by the Division of Beaches and Parks, both senior land agents of the division favor such eventual reorganization.

> Mr. Keller: May I ask one question and take advantage of Mr. Bruno's being here since he too is a professional real estate man. I would like to ask him his reaction to the previous suggestion that the land acquisition functions of various agencies, other than the Division of Highways, be combined into a single agency, possibly located in the Department of Finance along with the title section. What would be your reaction to that?

[4] *Survey of Organization and Process of the Division of Beaches and Parks*, op. cit., see Appendix A, page 67

Mr. Bruno (Donald F. Bruno, Senior Land Agent, Division of Beaches and Parks): Referring to my personal opinion and as you indicated a professional land man, I would say that there are drawbacks, of course, both ways. However, I think I would ultimately favor the idea of a land organization placed in one department of the State, aside from the Division of Highways which is too large an organization to be brought in. (Transcript of Proceedings, November 24 and 25, Committee Files, page 72.)

Mr. Keller: I would like to go back also to something that was asked of previous witnesses, I'm interested in this from the budget standpoint, of course. That is this suggestion that the land acquisition functions of various agencies with the possible exclusion of Highways could be combined into a single land agency, possibly in the Department of Finance, but not necessarily so. What's your reaction to such a proposal?

Mr. Hennessey: You're getting into a matter of policy, but I will speak personally on that because I've given a lot of thought to it I believe that a combination of all land agencies in the State, by that I mean all agencies except Highways because the Highways use federal funds, they have different laws and they have a multiplicity of things I could enumerate However, we have the land section of Beaches and Parks, they have a land section in Water Resources, you have your acquisition board to contract for agriculture, schools and so forth, and I know of cases where my men have been in areas working in purchases and we bump into men from Water Resources and Highways working the same area. I think a combined land section or division or department, whatever it would be, would save the State conservatively in the hundreds of thousands if not a million or more per year. I say that with this idea in mind as I stated before that land agents are the real estate agents for the various divisions, and they can negotiate this property once it is given to them on the same basis no matter where they are located.

Mr Keller: I asked this question with the thought in mind of the budgetary implications. At the moment as you know I wear two hats, and one of my thoughts in connection with it was if they could be combined you could get more work out of a given number of men or get a certain amount of work with fewer men and I put that as a question, could you not actually save the manpower by this method and also in connection with having the title section centrally placed would this not save time in this title searching.

Mr Hennessey: Certainly if it was all centralized it would save time and money, although I would say in the Division of Beaches and Parks you would still have to have one or two employees there, whether they be called title men or not to process the documents to the commission After all in the final analysis it is the Department of Finance that approves everything pertaining to the documents although we have some very capable men, don't get me wrong, in the title section. (Hearing, Transcript of Proceedings, Committee Files, November 24 and 25, pages 46 and 47). Assembly

Bill No. 717 included in this report should be adopted. This measure creates a State Property Acquisition Division in the Department of Finance and transfers to this agency all real property acquisition programs of all agencies except that of the Division of Highways. In addition to meeting a critical situation in the Division of Beaches and Parks, this consolidation of the land purchase function will have the statewide advantages of economy and efficiency resulting from a single specialized service agency functioning under a single state policy with appropriate lines of authority and responsibility.

PARK PLANNING—TIMING INADEQUACIES

The timing, use and adequacy of the present recreation and park program planning has been questioned in the hearings of the subcommittee and critically reviewed by the Legislative Analyst. The budget submittals of the Division of Beaches and Parks and the legislative appropriations for park purposes made available during the last three sessions of the Legislature have not been preceded by proper site development plans, analysis of recreation requirements, and potentiality of each area, the appropriate determination of the area to be purchased, and the costs of the development. The result is that estimated acquisition and development costs submitted for legislative review in conjunction with hearings on the budget have often far exceeded actual costs. This failure to properly plan and submit a true picture of cost to the Legislature has not permitted that branch to establish priorities between projects competing for available funds. The Legislature, consequently, has been and shall continue to be dependent upon the staff of the Division of Beaches and Parks for recommendations among competing projects The subcommittee is satisfied that the Legislature in this regard has not been presented the full facts regarding development plans and costs.

This lack of preauthorization study and appropriate planning has placed the division in the position of working against a predetermined dollar amount when planning the area to be acquired rather than using the planning tool as a method of determining the optimum recreation potential of the general area involved. Planning, further, should be the basis for the amount of use and type of use permitted in each recreation area It appears to the subcommittee that the planning activities of the division should follow three categories related to the purpose for which each category is determined and varied in detail depending upon that purpose·

1. Preliminary or reconnaisance type planning should be used by the division as a basis for budget requests involving planning money for feasibility studies on specific park and recreation areas.

2 Using these budgeted funds, site developmental plans to feasibility standards should be prepared showing the general location, number and types of facilities and uses projected for the area. Such plans should be appropriate for costing the facilities and projecting the visitor day use of each facility for the determination of benefit-cost ratios. The report submitted to the Legislature should show the stages of development costs and those related to operation maintenance on a yearly basis. This study should be the basis for authorization and

appropriation by the Legislature for the project and for development of the specific area.

3. Following the appropriation of funds for the purchase and development of a designated area, preconstruction, engineering, design and economic studies can be prepared to bid standards preparatory to initiating the first stage in the construction program.

These accepted stages, all requiring different detail in the studies and increasing in cost with intensity, are the normal steps used in the selection, preparation of plans, and costs for any engineering or construction project They are basic to present procedures and practice by both public and private agencies. A review of the process time and use of present park and recreation planning by the Division of Beaches and Parks prepared for the subcommittee by the Legislative Analyst is contained in the appendix of this report. It is clear from the following questions posed by the Legislative Analyst's study that these accepted processes have not been utilized by the Division of Beaches and Parks:[1]

(1) Why is the planning which leads to acquisition of land for a park separated from the planning which leads to the creation of a park on that land?

(2) Why is planning not carried to a point where probable total costs and end product can be seen before the land is purchased? We feel that this could be accomplished without costly detailed planning or undue loss of time.

(3) Why is the advance planning leading to land acquisition (greatly predetermining the quality of the completed state park) the responsibility of state park rangers instead of professional park planners? (The latter would not preclude consultation between the professional park planners and the rangers.)

Resulting Conflicts

During the past two interims the division and commission have been under strong local agency, legislative and private interest group attack directed toward its failure to recognize that recreation constitutes a valid park purpose. Part of the reason for this attack is based on the commission's failure to prepare sound developmental plans based on the characteristics of the terrain, the land classes, water and the general carrying capacity of the area. If appropriate planning procedure and principles were utilized by the commission and the division, uses could be expanded or contracted in a rational way that would have a much more appealing argument than the present park concepts of the commission. The failure to properly plan and to recognize planning as a tool of conservation of prime recreation areas has resulted in internal conflicts within the division, between the park ranger classes and the professional planners. These conflicts have been highlighted in the following paragraphs from the Legislative Analyst's report:[2]

(1) A basic difference of opinion or philosophy regarding the primary purpose of a state park and the State Park System

[1] *Survey of Organization and Processes of the Division of Beaches and Parks*, op. cit., page 13

[2] *Survey of Organization and Processes of the Division of Beaches and Parks*, op. cit., pages 13-15.

(a) The rangers, as a group, tend to be conservationists in their philosophy regarding the State Park System. The following statement made by the division chief in the March, 1958, *News and Views*—the official house organ of the Division of Beaches and Parks—states the conservationists point of view.

"* * * The essential purpose of our State Park System is to preserve those outstanding landscapes, with all they contain in flora and fauna, which are so significant to the entire State that they are preserved inviolate in the State Park System."

In passing, it might be noted that the term "recreation" is not contained in the name of any state park—even those with primarily a recreational purpose. Folsom Lake State Park was originally designated on development plans as Folsom Lake Recreational State Park, but the term "recreational" was removed before the name became official.

(b) The professional park planners (landscape architects, architects, etc.) have a different view or philosophy regarding the State Park System. This group tends to think in terms of developing a state park, and the State Park System, to its optimum potential for enjoyment of the scenic beauties afforded and at the same time providing for active recreation and family occupancy while giving full consideration to sound conservation practices.

The professional park planners would open more trails and camp sites and would provide recreational areas for those who remain in the parks over night or over several nights. Their view is that parks are for adults and their children, both of whom need facilities for active recreation while they are in the state parks.

This faction further contends that the scenic beauty of many parks goes unenjoyed by the public for lack of sufficient paths and trails within the parks.

There does seem to be a lack of enthusiasm present in the administration of the Division of Beaches and Parks, for the purely recreational type of park.

The criteria being used by the Division of Beaches and Parks to guide the selection and development of areas to be included in the state park system appears to be an inadequate basis for planning to meet California's current and future recreational needs. These criteria (see Exhibit V) developed some 30 years ago are basic and certainly should not be completely cast aside; however, they need considerable amplification and up-dating to meet the present day concepts of recreation and conservation.

Compatibility of Planned and Controlled Multiple Use

While this conflict between park and recreation concepts was fully reviewed in the 1957 report of this subcommittee, investigations during the past interim emphasize the fact that under proper planning controls the beauty of selected areas can be maintained in spite of

recreation use if the developmental planning controlling the use is related to scientific principles Some of the fears of the commission and the park rangers in the division are related to the fear that pyramiding recreation demand in California might well destroy existing park areas. While the feeling of balanced park planning has developed with the conservation principle and is relatively new, it is the belief of the subcommittee that controlled uses determined by sound planning will permit the satisfaction of the recreation demand without destroying the areas under use. Of great concern to the subcommittee is the present uncontrolled recreation uses threatening the timber and water production areas of the State These areas whose prime purpose is the production of water and timber can, under proper control, maintain this purpose and permit relatively intense recreation use. These demands can be met without destroying the timber and water producing characteristics of the upper basins of our main streams which must be used for the production and storage of water. All the land in the upper basins contribute to this purpose and all of the land has an appropriate recreation use in full compatability with this purpose, if overuse is not permitted to destroy watershed and timber producing ability of the land and thereby destroy both its main purpose and its recreation potential. Recreation use becomes incompatible with other use and with the major purpose of watershed areas when planning is not based on sound conservation principles related to land characteristics and the ability of land to sustain the pressure of use. The following planning principles are submitted as a guide to general recreation planning necessary to meet present and projected demand:

1. Sound management principles should control developmental plans and thereby the use permitted for any designated area in order to assure that the natural beauty be preserved through controlled densities and open space reservations; the prevention of water pollution and fire; the prevention of destruction of the land by relating use to land characteristics and carrying capacities.

2. Use should be prevented on undeveloped areas lacking proper sanitary facilities and fire control, but development of facilities must be adequate to meet recreation demand buildup.

3 Public and private water developmental programs should be planned, constructed and administered to enhance the economy of the area by recognizing that recreation constitutes a major industry. Developmental plans should provide a balance between public and private ownership of recreation facilities available for public use in order to strengthen the tax base available to local government to finance the service such governmental units must provide the recreationist.

4. The planning of public recreation facilities should include provision for greater contribution by the using public to their costs of construction and administration.

The broad pioneering work in the field of recreation planning and development done by the Department of Water Resources is receiving national attention. The studies might well be used preliminarily by the division in establishing standards, criteria and densities for developmental planning. The following excerpt from the Legislative Analyst's review indicates the nature of this work: [3]

[3] *Survey of Organization and Processes of the Division of Beaches and Parks,* op cit, pages 15-17.

* * the guiding principles developed for the Department of Water Resources by the private organization, Pacific Planning and Research, may be paraphrased to amplify and update the criteria now being used as a guide for expanding and developing the state park system.

Paraphrased, these general principles are:

(1) Basic consideration for overall development and expansion of the state park system should be the needs of California's expanding population as determined by population growth projections, demand for public recreation, a projection of this demand by type, and an exhaustive recreational inventory of the existing state park system as well as all potential recreation areas of the State

(2) A cost-benefit analysis, based upon a generalized site development plan and an acceptable methodology of translating recreation benefits into economic terms, should be made for every plan of acquisition and development.

(3) Recreation use and development plans must conform to the highest standards of conservation and land management, considering optimum recreation use of an area only in relation to these standards.

(4) All plans should provide for the development of individual areas in stages, as population growth and recreation needs of the State require.

(5) The recreational use of an area should be analyzed in light of the competing economic uses of the area but in full recognition that recreation constitutes a major industry.

(6) Best land use should control the projected dvelopment in any sub area but insofar as possible, the overall development plan of a total recreational area should be balanced so as to make the area attractive to recreationists of many interests.

(7) Recreational areas and facilities should be planned to take full advantage of the natural features and scenic beauty the area affords.

(8) State parks should be planned as a segment of an overall recreational area which comprehends both private and public developments conforming to careful zoning based upon a master plan for development of the area. State parks per se may include a balance of public and private (through long term leasehold) development for the optimum use and enjoyment of the public.

It is the recommendation of the subcommittee that Assembly Bill No. 720 providing for planning to feasibility standards before legislative appropriation for purchase and development of recreation and park areas be accepted. This measure will permit multiple use of some park and recreation areas for such activities as timbering, grazing, hunting, fishing, swimming and camping when the nature of the area and its characteristics have been thoroughly examined and a plan developed to control such use. Other areas should be reduced in intensity to pro-

tect timber groves beyond value and areas of great beauty and quality now being threatened by irrational overuse.

RESERVOIR RECREATION AREAS

The value of reservoirs developed by public and private agencies for recreation has been well documented in the reports of this subcommittee. If the reservoir area is properly planned to furnish balanced public-private facilities, a tax base can be built into the area to offset the loss of the taxes involved in the removal of the land from tax rolls, or in the case of privately owned reservoirs additional use can be generated both to the benefit of the locality and to the private owner. The number and location of these facilities and the development of a balanced public-private resource can be determined by site planning studies at the time the engineering and economic investigations are accomplished for the project.

No agency in State Government is now responsible to assure that recreation planning is a part of the developmental plans for all reservoirs, public and private, in the State. It is not the finding of the subcommittee that a single state agency or state agencies should be given the responsibility of recreation planning in conjunction with all water programs, but it is the conclusion of the committee that some state agency should co-ordinate such planning with the other public and private agencies to assure that this resource not be neglected. Such planning on the part of other public agencies and privately owned public utilities has been neglected because of legislative failure to authorize the expense of planning and administering the recreation resources as a legitimate function of the public agency or as a legal charge in the determination of rates for water and power.

It is the recommendation of the subcommittee that additional authority be granted the Deparment of Water Resources to co-ordinate the recreation planning around reservoir areas with public and private agencies to assure that these resources not be neglected. The present responsibilities of the Department of Water Resources regarding small watershed development programs are sufficiently great to cause the department at this time to concern itself with recreation planning. Additional authority would be useful to the department in this co-ordinating function. The two measures, Assembly Bill Nos. 1294 and 1295 included with this report, should be adopted. These measures permit public and private agencies to expend funds for planning, developing and maintaining recreation facilities in conjunction with reservoirs. They also permit public agencies and private utilities to defray the cost of such programs as a legitimate charge in the sale of water and power.

APPENDIX A

SURVEY OF ORGANIZATION AND PROCESSES OF THE DIVISION OF BEACHES AND PARKS WITH STATUTORY BASIS AND RECOMMENDATIONS FOR CHANGES

REPORT TO THE

SUBCOMMITTEE ON BEACHES AND PARKS OF THE ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING AND PUBLIC WORKS

Prepared by Legislative Analyst

January 15, 1959

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PART I

SURVEY OF ORGANIZATION AND PROCESSES OF THE DIVISION OF BEACHES AND PARKS AND RECOMMENDATIONS FOR CHANGES

A. GENERAL

The Division of Beaches and Parks as a major unit within the Department of Natural Resources, performs all management activities of the State Park System according to policies established by the State Park Commission.

The commission is the statutory administrative head of the division, effecting its policies through the chief as nominal head of the division. Because the existing provisions of the Public Resources Code vest the responsibility for administrative jurisdiction in the commission, the Director of the Department of Natural Resources is limited in the administrative authority afforded him with respect to the division, and for the most part can only advise and provide routine housekeeping functions. However, procedures initiated by the Department of Finance have accorded the Director of the Department of Natural Resources an important review role in property acquisitions for the State Park System.

The division's headquarters operations are in Sacramento and its field activities are conducted through six district offices which at this writing are located in Eureka, Santa Rosa, San Francisco, Monterey, Stockton and San Clemente.

B. ORGANIZATION OF THE DIVISION OF BEACHES AND PARKS

The Chief of the Division of Beaches and Parks, the principal executive officer of the division, is responsible for administration, development, protection, preservation and operation of the State Park System in accordance with policies of the State Park Commission. To whom the chief is directly responsible is a matter of conjecture because of the nature of this appointment and conflicts of applicable law.

Through the chief, as principal interpreter of State Park Commission policy, is shaped the character of the State Park System and the Division of Beaches and Parks.

The public information officer reports directly to the chief as indicated in Exhibit I. This position is responsible for all press releases to all media, for compiling and editing all publications of the division and for the continuing development of a public and community relations program on behalf of the division. There is no apparent reason why this position could not report through the deputy chief for staff services as a segment of the Conservation, Information and Interpretation Unit shown in Exhibit III.

The relationship of the administrative aid to the chief is shown in Exhibit II. With the exception of analyzing some legislative bills and

processing water safety matters, this position apparently has not been utilized to carry any major responsibility or to perform any task which might not be performed by an able secretary.

1. Business Services Section

This section, under the supervision of an administrative services officer II, performs the "housekeeping", business management and personnel management functions of the division.

a. The administrative services officer is responsible for the supervision and programing of the activities of the Business Services Section and for interpreting policy relative thereto. Because of its personal property purchasing function this position has become involved in such varied activities as representing the division before the Federal Communications Commission (relative to the installation of radio transmission equipment) and negotiating for purchase of a historic ship.

b. The personnel officer's position is filled with an administrative aid I. This position is responsible for all routine personnel transactions of the division including records, studies, the in-service training program and has been assigned responsibility for developing a field manual of operations and policy for the division.

c. The concessions officer is responsible for drafting, negotiating and supervising concession agreements. He is responsible for assuring compliance with the provisions of all concession agreements. These agreements are normally written for a term of five years. Rental of residences within the parks to private individuals are treated as concessions and are negotiated by this officer.

This function is essentially one of real property management and as such could more logically be a part of the acquisition unit. Its transfer to the acquisition unit would permit that unit to negotiate, draft and administer concession agreements in keeping with sound principles of property management based on ever current information. The acquisition unit should be able to absorb this responsibility without the necessity of increased staff.

It is apparent from the concession list (Exhibit I) that a reappraisal and renegotiation of many of these agreements and the enhancement of the State's income therefrom is in order.

2. Staff Services Section

The deputy chief for the Staff Services Section is a newly created position. This position, and the Staff Services Section, were recommended by the Department of Finance in order to consolidate under a single deputy the numerous staff services units which had been reporting directly to the chief. The main units within this section are Project Investigation, Real Property Acquisition, Development Planning, Conservation Education, History and Forestry. Each of these units performs some technical service related to real property acquisition, development or operation, but has no direct control over any aspects of park operation.

a. The Forest Protection Unit is under the supervision of a forest technician, now designated a state park ranger V. It is the duty of this section to plan and supervise the over-all forest protection program

of the division This includes planning and programing such forest protection services as fire lane mapping and control of insects and tree diseases. The ranger in charge acts as consultant on forest protection matters to all district superintendents except in District I which has its own forest technician This section is a one-man operation at the present time but the objective is to have an adequate forest protection program in every district.

In order to better co-ordinate similar and related functions as well as simplify the work of the deputy chief for staff services, this function should be joined into a single unit with the wildlife management function (See Exhibit III.)

b. The Conservation Education Unit, under the direction of a naturalist III, is charged with interpretation and explanation to the public of the natural history and the flora and fauna of the various state parks. This is done through exhibits of mounted animals, rock collections, photographs, and nature hikes conducted in the parks during the summer. This unit also directs the division's audiovisual program, maintains the photograph and general libraries of the division and directs the general public information program within the parks, i.e., where to go, what to do, etc. Supervision of the division's wildlife management program is centered in this unit, which includes such things as elk herd management and ground squirrel control.

This unit could logically be joined with the Forest Protection Unit, the Public Information Unit and the History Unit to comprise a single administrative unit under a supervisor of conservation, information and interpretation. (See Exhibit III.)

c. The History Unit, under the direction of a historian, is responsible for interpreting, for public consumption, the cultural or man-made history of the State. The historian and his staff conduct basic research on historic sites in California and interpret the history of given areas for their preservation and protection as units of the State Park System Archeological and paleontological research and salvage is carried on largely through contracts with colleges and universities The historian acts also as secretary to the Historic Landmarks Advisory Committee and as a staff advisor to the chief.

We believe the History Unit should be made a part of the proposed Conservation, Information and Interpretation Unit This would facilitate joint use of the exhibits laboratory and the audiovisual library by the History Unit as well as simplify its supervision by the deputy chief. (See Exhibit III.)

d. The Project Investigation Unit, under the supervision of a state park ranger VI, is staffed with rangers and landscape architects. This unit is responsible for screening proposed park areas, and advance planning of those areas judged acceptable, prior to acquisition and development Investigation and planning are done by the rangers assigned to the unit while the landscape architects are used as mere delineators for map drafting.

A comprehensive field survey is made of all areas which pass the preliminary screening A project investigation report for each area is then developed from this and other data covering such considerations as terrain, climate, natural scenic beauty, wildlife and the park development potential of the area Included in the report are photo-

graphs of the area, maps, a land use plan and rough estimates of the cost to acquire, develop and maintain the area.

Before a project investigation report is put into final draft it is circulated among the appropriate staff sections, the superintendent of the district in which the project is located, and the chief of the division. Comments and recommendations stemming from this review are incorporated into the final report before presentation to the State Park Commission.

The project investigation function is the equivalent of advance planning but under existing procedures it does not always yield an accurate indication of the final boundaries of an acquisition or what the State may ultimately pay for a park. The cost estimates given in these reports are often far short of the actual costs, with the result that some projects may be reduced in scope or require more money than was originally appropriated by the Legislature.

Another significant result of this advance planning procedure is that the eventual park development must be made to conform to predetermined boundaries laid out by the ranger-investigators. The development planners contend this is the reverse of good planning procedure since it places undue restrictions on the quality of parks which can be developed from a given area. In actual practice, the development planners make little use of the advance plans drafted by the project investigators.

It is the opinion of this office that the separate project investigation unit ought to be abolished and its function be assigned to the development section where it logically belongs.

e. The acquisition unit, under a supervising state park lands agent, is responsible for the technical-legal aspects of acquiring real property. The organization, function and operation of this unit have been discussed in considerable detail in a report dated February 28, 1958, made to a subcommittee of the Assembly Committee on Conservation, Planning and Public Works. The details of this report are essentially accurate as of this writing except those which apply to the northern office of the Attorney General. Both the northern and the southern offices of the Attorney General are current in their filing of beaches and parks condemnation actions where the division has furnished complete and accurate documents required for such filing. The following conclusions and recommendations are based on a review of the previously mentioned report and subsequent interviews with top level real estate purchasing officers for large financial institutions and with land agents in the State's service.

The acquisition activities together with the title review function and the writing of concession agreements are technical real estate functions which could be performed more effectively by a central unit acting for all state agencies, excepting, perhaps, the Division of Highways.

This central unit should be a part of some larger agency such as the Department of Finance. Its services could be co-ordinated through a liaison position within each client agency. This liaison position should be filled by a professionally qualified land agent who can interpret the client's policies to the central agency and can perform the review function on behalf of the client. In the Division of Beaches and Parks, this

function could be performed satisfactorily by an associate state land agent or equivalent.

(1) The practice of having two or more independent appraisals of land to be acquired leads to confusion regarding the price the State should pay for a given piece of property. Except where necessary for court action, one appraisal subject to careful review by another qualified appraiser should be sufficient and would eliminate this source of confusion. This would be somewhat analogous to the procedure used by the Division of Highways.

(2) The use of fee appraisers, except as necessary for court action, is an unnecessary expense which could be greatly reduced by the exclusive use of staff appraisers. Conversations with real estate brokers on the staff of private financial firms which have large investments in real property indicate these firms use their own staff appraisers exclusively, and have experienced no difficulty in hiring and retaining qualified appraisers at salaries comparable to those paid to state park land agents. The Division of Highways also depends upon the exclusive use of staff appraisers except where independent fee appraisals are required for condemnation proceedings.

Whether or not the acquisition function is centralized as recommended, a considerable savings could be realized within the beaches and parks' acquisition program by substituting one staff appraisal for the two fee appraisals now being used. The quality of staff appraisals can be assured by a careful review procedure and by a continuing in-service training program. Whenever advisable for comparison purposes, a second staff appraisal can be prepared from the same factual data report used in making the first appraisal.

Amounts paid by the Division of Beaches and Parks to fee appraisers since the beginning of the 1956-57 Fiscal Year are as follows:

Fiscal year	*Amount paid*
1956-57	$157,546
1957-58	128,566
July 1, 1958, to December 27, 1958	136,419

By increasing the existing beaches and parks' acquisition staff by eight state park land agents of the associate level, all appraisals, except those required for condemnation proceedings, could be accomplished by the division staff.

The increase in salary costs to the division would be approximately $50,000. Allowing $10,000 for independent fee appraisals required for court action would increase the total cost of beaches and parks' appraisals to approximately $60,000 per year. Thus a net savings of approximately $212,838 would be realized, assuming an annual volume indicated by the first half of this current fiscal year.

A related benefit from the more extensive use of staff appraisers would be greater ease in co-ordinating the completion of appraisals with a projected schedule of initiating negotiations for acquisition. This is because qualified fee appraisers are few in number and have a heavy workload. As a result, they often require two to three months

to complete an appraisal which staff appraisers working exclusively for the division could compile in one month or less.

f. The development planning unit, under a supervisor of development, and staffed primarily with landscape architects, architects, and civil engineers, plans the development of a park after the land has been acquired.

Park development planning follows generally these steps:

(1) Field studies are made of the actual area involved, and through several preliminary plans a land use or land management plan is developed.
(2) Upon approval of the land use plan by the chief and State Park Commission, a master plan or general development plan is designed. The master plan is divided into steps or phases to be accomplished over a period of years and may contemplate modification of existing park boundaries. The cost of each phase is estimated and assigned a priority designating the order of budgeting and activating.
(3) When a phase of the master plan is activated and budgeted, the final development plans and working drawings are drafted. These serve as a basis for bidding and letting of contracts at the district level.

Insofar as staffing and workloads permit, development planning is carried on at the district level. However, district planning staffs are limited and most planning activity is at division level. Care is taken at each step to consult with the district superintendent affected and to keep a uniform approach to all park planning done in the districts. All planning done at the division level is reviewed through staff conferences between district and division planning personnel.

It is apparent that this method of planning—beginning with a preliminary plan progressing to a land use plan which sets forth the area and its general uses, developing a master plan and dividing it into phases for development over a period of years, and then proceeding step by step with actual development after careful budgeting—might be adapted to, or incorporated with, acquisition planning. This could make it possible to visualize a project in terms of total costs and end results before land acquisition is ever begun, thus the Legislature might have a better picture of what the initial appropriation, or any subsequent appropriation, for a given project means in terms of the final objective.

Under the present planning procedures of the Division of Beaches and Parks, the initial appropriation for a project means little in relation to the end product. These procedures also require the division to work against a predetermined dollar amount when planning the area to be acquired for a park rather than permitting planning for realization of the optimum recreational potential of the general area involved.

Currently the division has in District IV a pilot team which constitutes an experiment in decentralizing to the district level both the project investigation and the development planning function. This pilot team consists of a state park ranger V, who is in charge, and an associate landscape architect. The assistant landscape architect and assistant civil engineer assigned to the district staff were to become part

of the pilot team, but a backlog of work already assigned to them has prevented their extensive participation in the pilot program.

The pilot team has been slowed in its progress by the lack of any clearly defined instructions or program from division headquarters. This handicap is increased by the fact that the team is located in District IV headquarters while working in the proposed bounds of District V which crosses two existing district boundaries. These problems are not inherent in the project but, rather, reflect a lack of administrative planning and programing at the division level. Even though the pilot team has been in the field a relatively short time and has gotten off to a slow start, certain conclusions and recommendations regarding this approach to planning can be drawn from its experience thus far. They are:

(1) The chief advantages of having planning carried on at the district level is the benefit which can be derived from enabling the planner to have a more intimate contact with the areas to be planned and the opportunity to develop better understandings of all levels of park administration from district superintendent to supervisor. Also, better liaison with other state and local government agencies concerned with any specific park project can be maintained by working teams in the field.

(2) The assignment of planning teams to the various districts and to the administrative control of the district superintendent can greatly complicate the maintenance of a uniform approach to park planning throughout the State. A district superintendent is not necessarily qualified to pass final judgment on park planning; yet this type of decentralization gives the district superintendent a review function over the work of the planners.

While the experience of the district superintendent in practical park operation should be brought to bear on plans for future parks or park additions, there is no apparent necessity for his participation in planning beyond advising on practical operational problems which may arise from a given plan.

(3) The advantages of placing the planners in close physical proximity to the geographic areas being planned while at the same time retaining uniformity of approach to planning throughout the State can best be had by the branch office approach to decentralization. This approach would involve the establishment of planning teams, administered at branch offices of the division headquarters planning section and located strategically throughout the State.

Four such planning units utilizing the professional staffs now in division headquarters and in the various districts should be able to carry the existing and anticipated planning workload. These units could be housed in state facilities depending upon availability of space and requirements of the area each unit is to serve. Repair, maintenance and contract supervision requiring the services of an architect, engineer or draftsman could be furnished a district by the planning unit assigned to service that district.

A supervisory level staff should be retained at division headquarters to program, co-ordinate and review the work done in the branch units. This headquarters staff might consist of the supervisor of planning and development, a senior landscape architect, a senior civil engineer and a state park ranger VI In addition to this review staff, the survey unit should perhaps be headquartered in Sacramento to facilitate programing according to weather and surveying workload in the various sections of the State

While the district superintendents ought to have an opportunity to review park plans for operational problems, prior to the plans being forwarded to division headquarters, this function can be performed during the formative stages as a part-time duty by a park ranger on the district staff. This arrangement would obviate the necessity of assigning a park ranger full-time to each planning unit, thus releasing for duty elsewhere the ranger V's presently assigned to the project investigation unit and the ranger V assigned to the existing pilot team The staffing of a ranger VI at the division level as a member of the review unit will further obviate the necessity of placing the planning and development function under the administrative control of the various district superintendents.

The planning team procedure under study by the division, as discussed previously, does not represent the planning methods in general usage by the division, nor is there any indication that the division intends to adopt them for all park planning For this reason we can only comment on things as they are generally done now and as it appears they will be done in the near future In this regard three major questions might be raised:

(1) Why is the planning which leads to acquisition of land for a park separated from the planning which leads to the creation of a park on that land?
(2) Why is planning not carried to a point where probable total costs and end product can be seen before the land is purchased? We feel that this could be accomplished without costly detailed planning or undue loss of time.
(3) Why is the advance planning leading to land acquisition (greatly pre-determining the quality of the completed state park) the responsibility of state park rangers instead of professional park planners? (The latter would not preclude consultation between the professional park planners and the rangers.)

Interviews with Division of Beaches and Parks personnel strongly indicate a rivalry existing at division level between the ranger classes and professional park planners.

This apparent rivalry seems to stem from two causes:

(1) A basic difference of opinion or philosophy regarding the primary purpose of a state park and the state park system.

(a) The rangers, as a group, tend to be conservationists in their philosophy regarding the State Park System The following statement made by the division chief in the March, 1958, *News and Views*—the official house organ of the Division of Beaches and Parks—states the conservationists' point of view.

"* * * The essential purpose of our state park system is to preserve those outstanding landscapes, with all they contain in flora and fauna, which are so significant to the entire State that they are preserved inviolate in the state park system."

In passing, it might be noted that the term "recreation" is not contained in the name of any state park—even those with primarily a recreational purpose. Folsom Lake State Park was originally designated on development plans as Folsom Lake Recreational State Park, but the term "recreational" was removed before the name became official.

(b) The professional park planners (landscape architects, architects, etc.) have a different view or philosophy regarding the State Park System. This group tends to think in terms of developing a state park, and the state park system, to its optimum potential for enjoyment of the scenic beauties afforded and at the same time providing for active recreation and family occupancy while giving full consideration to sound conservation practices.

The professional park planners would open more trails and camp sites and would provide recreational areas for those who remain in the parks over night or over several nights.

Their view is that parks are for adults and their children, both of whom need facilities for active recreation while they are in the state parks. This faction further contends that the scenic beauty of many parks goes unenjoyed by the public for lack of sufficient paths and trails within the parks.

There does seem to be a lack of enthusiasm present in the administration of the Division of Beaches and Parks, for the purely recreational type of park.

The criteria being used by the Division of Beaches and Parks to guide the selection and development of areas to be included in the state park system appears to be an inadquate basis for planning to meet California's current and future recreational needs. These criteria (see Exhibit V) developed some 30 years ago are basic and certainly should not be completely cast aside; however, they need considerable amplification and up-dating to meet the present day concepts of recreation and conservation.

The whole broad subject of public outdoor recreation planning will be treated in the report of the Committee for the Development of the California Public Outdoor Recreation Plan which is scheduled to be presented to the Legislature in March, 1960. Undoubtedly, this report will contain valuable and much needed guides for the future development of the State Park System in concert with other recreational facilities of the State. In the interim, . . . the guiding principles developed for the Department of Water Resources by the private organization, Pacific Planning and Research, may be paraphrased to amplify and up-date the criteria now being used as a guide for expanding and developing the State Park System

Paraphrased, these general principals are:

1. Basic consideration for overall development and expansion of the state park system should be the needs of California's expanding

population as determined by population growth projections, demand for public recreation, a projection of this demand by type, and an exhaustive recreational inventory of the existing state park system as well as all potential recreation areas of the State.

2. A cost benefit analysis, based upon a generalized site development plan and an acceptable methodology of translating recreation benefits into economic terms, should be made for every plan of acquisition and development.
3. Recreation use and development plans must conform to the highest standards of conservation and land management, considering optional recreational use of an area only in relation to these standards.
4. All plans should provide for the development of individual areas in stages, as population growth and recreation needs of the State require.
5. The recreational use of an area should be analyzed in light of the competing economic uses of the area but in full recognition that recreation constitutes a major industry.
6. Best land use should control the projected development in any subarea but insofar as possible, the overall development plan of a total recreational area should be balanced so as to make the area attractive to recreationists of many interests.
7. Recreational areas and facilities should be planned to take full advantage of the natural features and scenic beauty the area affords.
8. State parks should be planned as a segment of an overall recreational area which comprehends both private and public developments conforming to careful zoning based upon a master plan for development of the area. State parks per se may include a balance of public and private (through long term leasehold) development for the optimum use and enjoyment of the public.

(2) The park planners appear to think their opportunity for advancement and to build a career within the division has been blocked at the senior level in order to build opportunities for the rangers. Several members of the Division of Beaches and Parks staff pointed out that all personnel above the senior level, except the chief and administrative services officer, come from the ranger class. It was also noted that a ranger V was placed in charge of the planning team sent to District IV as a pilot study—even though the associate landscape architect serving under him receives higher pay.

The pay scales for rangers and for professional planners are as follows:

	Salary range
Supervisor of development	$821-$1,000
Supervisor of project investigation (ranger VI)	710- 862
Senor civil engineer	745- 905
Senior landscape architect	710- 862
Associate landscape architect	613- 745
State park ranger V	556- 676

3. *Field Operations Section*

The Deputy Chief for Operations is a position created to provide a single administrator to whom district superintendents are to be responsible. This deputy functions as executive assistant to the chief, taking control over all division operations in the absence of the chief. The latter situation entails assuming also the responsibility for the Deputy Chief of Staff Services. The pay scale is the same for both positions. One of the major functions of the operations deputy is to make frequent visits to park districts and interpret to them the policies of the State Park Commission and the chief, the objective being to build a uniform approach to all administrative matters throughout the six state park districts.

Each of the six district superintendents administers that portion of the state park system within a designated geographical area. The boundaries of these districts will be changed effective July 1, 1959.

As may be seen from Exhibit IV, it is the intention of the division to make each district a miniature division, duplicating on a smaller scale all the functions found at the division level. This organizational chart represents a goal rather than an actuality and in practice each district has an organizational structure which varies to some degree from this hypothetical district.

C. THE STATE PARK COMMISSION AND THE DEPARTMENT OF NATURAL RESOURCES

The many conflicts of authority existing in the provisions of the Public Resources Code affecting the administration of the Division of Beaches and Parks makes it desirable that the division, the State Park Commission and the Department of Natural Resources be considered jointly to give an accurate picture of their respective relationships.

From a practical standpoint many of the conflicts of authority which exist in the code have necessarily been resolved on an informal basis by the agencies involved. Through working arrangements each of the three agencies connected with the State Park System has taken responsibility for its most logical role, regardless of the strict wording of the code. For instance,

> . . the State Park Commission has delegated its administrative responsibilities completely to the department and to the division. The present commission has retained only responsibility for policy determination and the authority to approve contracts with outside agencies, such as land lease or land acquisition contracts. Authority over approval of plans has also been retained by the commission.
>
> The commission takes no part in the procurement of personnel, equipment, or supplies. The budget of the division and of the park system developed and adopted by the department is an integral part of the department's budget. Even though the commission has legal powers over all budget matters it has not seen fit to adopt a resolution relative to the budget.
>
> Nevertheless, the conflicting provisions of the code violate concepts of good administration and do create a situation in which there is diffusion of responsibility and where serious controversies as to authority could arise. For this reason some of the chief areas

of conflicting authority are commented upon in the following sections.

The Division of Beaches and Parks is made a part of the Department of Natural Resources by Section 504 of the Public Resources Code.* Sections 512 and 513 specifically give the department authority over the officers, records, funds, etc., of all divisions within its structure. (These are based on Section 373g of the Political Code, now repealed and replaced by the Government Code.)

Power to appoint the chief of the division, upon nomination by the commission, is afforded the director of the department by Section 506, while Section 509 gives the director the power to fix the salary of the chief (with the approval of the Governor). This would indicate that while the department has limited discretion in appointment of the chief, it has the power to discharge him. However, for practical purposes, the chief is appointed by the commission as its one constitutionally allowed position which is exempt from the provisions of civil service. This not only appears to be contrary to the intent of the law which establishes the position as an appointee of the director, but also presents an interesting conjecture as to what would be the status of the chief's appointment should the director attempt to discharge him, under his legal authority as the appointing power. The fact that the chief administrative officer of the director in this area of responsibility is immediately responsible to the commission cannot help but confuse and divide administrative authority.

There is conflict in the code as to which body shall control the State Park System. Section 5001 gives control of parks to the department, but through the commission. The commission, by nature of its appointment (four-year staggered terms), and by virtue of the powers vested in it by law, is virtually independent of the Department of Natural Resources. These powers given to the commission tend largely to nullify any control the department might have over the park system. Section 506 provides that the commission shall make the policies for the administration, protection and development of the State Park System. These general powers are reiterated and expanded in Section 5003, which also gives the commission (without reference to either the division or the department) the power to expend all moneys of the commission from whatever source derived, for the care, protection, supervision, extension, and improvement or development of the State Park System.

This section further provides that the commission shall make the rules and regulations for the government of the system. These powers, coupled with the appointment by the commission of the exempt position of chief of the division give it almost complete control of the park system.

The administrative authority of the commission is well established in the sections of the code which follow Section 5003. All the powers necessary to administer the park system are conferred specifically upon the commission, except in two or three notable

* All code references are to the Public Resources Code unless indicated otherwise.

instances. Examples of the administrative authority conferred upon the commission are:

1. Power to acquire title to real property, either by purchase or condemnation. (5006)
2. Right to confer on park employees peace officer powers for state parks. (5008)
3. Collect fees, rental and other returns for the use of any state park area. (5009)

An apparent conflict also exists over the lease authority granted to the commission and to the department. Section 5006.5 gives authority to the commission to lease outside properties for park purposes. Any lease under $1,000 per year may be made by the commission without the approval of the Department of Finance. This section conflicts with Section 5060, which gives the lease authority to the department acting through the commission. In neither Section 5006.5 nor 5060 is there any reference to the division. Sections 5061, 5062 and 5063 outline terms and conditions under which the department may lease outside property for park purposes These conditions are different from those which are outlined in Section 5006.5

A complete revision of that portion of the Natural Resources Code under discussion here has been drafted and is included as Part II of this report.

D. INTEGRATION OF PERSONNEL, ACTIVITIES AND PROPERTY OF OTHER STATE AGENCIES WITH THAT OF BEACHES AND PARKS

It is practically impossible to take full advantage of certain logical integration of personnel, activities and property of the Division of Beaches and Parks with other state agencies because of differences in sources of agency funding.

For instance, the pooling of highway, forestry and beaches and parks equipment at strategic locations for optimum economical utilization would be of considerable benefit to all agencies concerned. However, priority of use, and prorating of depreciation and equipment replacement costs would require an augmented accounting system which could very well offset any advantages which might be had thereby Nevertheless, it was apparent from frequent field visitation that equipment pooling and use standardization within the Division of Beaches and Parks could and should be improved upon considerably.

The two major field agencies of the Department of Natural Resources, which are the Divisions of Beaches and Parks and Forestry, have personnel in generally the same categories throughout the State. In many places both divisions have personnel in the same locality. It would be desirable to utilize these complements of personnel in integrated functions, but the peak seasonal activities of the two divisions occur at the same time which for the most part precludes such integration.

However, we would like to emphasize the point that line personnel of the Division of Forestry lose their peak effectiveness generally at around 45 years of age. If continued in a line position performing active fire

suppression duties, life and limb become seriously endangered and effectiveness is reduced not only of the "overaged" individual involved but of those around him. It is clear that in such a situation there is a distinct disadvantage to the State and to the individual.

We believe that there is a solution which affords benefits to both the State and the individual at this point. Division of Forestry line personnel are not only trained in conservation and the technical and management aspects of flora and fauna, but also have continuous contact with the public Because of this background and generally long tenure of experience along these lines, by the time a forester reaches his marginal age of effectiveness where active fire suppression duties are concerned, he still could be of invaluable service to the Division of Beaches and Parks. His training, except perhaps in simple basic park procedures, is completed. His public contact effectiveness can be easily evaluated, and he could generally afford many years of service in the less strenuous activities of park operations.

For various organizational reasons within the Division of Forestry, the "overaged" man may be relegated to menial duties which do not afford full utilization of his knowledge, or he may be prevailed upon to retire for the same reasons. Because of his long period of specialization in the state service, his acceptability on the open labor market is extremely limited. Even though he might be compelled to accept a position with the Division of Beaches and Parks at a lesser salary than that of his last assignment with the Division of Forestry, the nature of park operation would afford him opportunities of advancement and his initial salary would be considerably more than a retirement income.

The "overaged" forestry personnel should be given first opportunity to fill open positions in the Division of Beaches and Parks for which he is qualified, and a set of procedures should be initiated so that a lateral transfer between forestry and beaches and parks could be effected without interruption of state service

SUMMARY OF FINDINGS AND RECOMMENDATIONS

ADMINISTRATIVE RESPONSIBILITY OVER THE DIVISION OF BEACHES AND PARKS

It should be pointed out that some changes in policy, procedure, and organization must be accepted by the State Park Commission before they can be effected because of existing legal requirements. However, some of the following recommendations can be implemented by the Legislature, Department of Natural Resources, Public Works Board, and Department of Finance without changing any existing provisions of law, or requiring acceptance by the State Park Commission.

Conflicts of authority and responsibility over the state park system exist in the law as it applies to the State Park Commission, the Department of Natural Resources, and the Division of Beaches and Parks.

The law designates the State Park Commission as administrative head of the state park system and confers upon it all administrative authority. In practice, many of the conflicts of authority which exist in law have been resolved by the agencies involved, and the commission has tacitly delegated most of its administrative authority to the division and the department.

Nevertheless, these conflicts of law and the vesting of administrative responsibility in an appointed, noncompensated commission deviate from standard concepts of good administration. For this reason, we believe the Legislature should amend that portion of the Public Resources Code relating to the state park system and the agencies which control it; assigning to each its proper role in relation to the other.

Division Headquarters Organization

1. The concessions officer performs a function which is essentially part of the real estate function performed by the Acquisition Unit and as such should be transferred from the Business Services Section to the Acquisition Unit which in turn should be made a part of a central acquisition unit acting for all state agencies except perhaps the Division of Highways.

2. The Forest Protection Unit is a one-man operation which performs a conservation function and should be combined with the Conservation Education Unit, the Public Information Unit and the History Unit into a Conservation, Information and Interpretation Unit under a single supervisor.

3 The present location of the social history preservation function in the division is questionable and should be considered for consolidation with the proposed Conservation, Information and Interpretation Unit.

PARK PLANNING

The division, while having generally organized its functional units according to recommendations made by the Department of Finance in

Management Survey Report No. 877.1, dated December 13, 1957, has continued the separation of advance planning (termed "project investigation" by the division) from development planning. However, the division is conducting a pilot study, merging advance planning and development planning at district level.

In regard to park planning functions, the following was determined:

1. Advance planning leading to acquisition of park land is done by park rangers rather than the professional park planning staff. Landscape architects assigned to advance planning (project investigation unit) are being utilized as delineators for drafting maps rather than making field studies for planning purposes This arrangement exists even though the professional training and qualifications of landscape architects appears to be better preparation for park planning work than does the training and qualifications of park rangers.

Since advance planning largely predetermines the size and quality of the resultant park, poor park planning may prevent the full potential of an area from being realized, and may hinder intelligent screening of proposed additions to the system. For this reason we believe the development planning staff is the appropriate unit within the division to carry out all phases of park planning and the following changes at division level should be effected:

a. The landscape architects and delineators in the project investigation unit should be transferred to the development planning unit
b The rangers, grade V, now in the Project Investigation Unit, should be transferred to the district level to be used as park supervisors, as supervisors of construction and maintenance, as consultants to the district planning staff, or in any position where they can be justified on a workload basis and their classification would be compatible.
c. All park planning should be decentralized to branch units located strategically throughout the State and the professional planning staff remaining at division level should constitute the unit to program and co-ordinate such work carried on in these various branches.

The following changes should be made in the organization of the pilot team now doing planning work in District IV:

a The pilot study team should be headed by an associate landscape architect rather than a ranger V.
b. A ranger should serve as consultant to the park planning team and should be responsible to the landscape architect in that capacity. It is felt that such consultant duty would not justify assigning a ranger to the team on a full-time basis but would be one responsibility among others, viz. supervisor of maintenance and construction.
c. The pilot team should be constituted as a branch of the Sacramento headquarters planning unit and the associate landscape architect, the associate civil engineer and the drafting aid II now assigned to the district should be assigned as members of the team. When development planning has been completely decentralized as recommended previously, this pilot team would become one of the branch units.

2. Development plans for new parks are not advanced even to the land use plan stage prior to acquisition of the land. Thus, accurate estimates of probable total costs for a given park are often unavailable at the time the Legislature makes the initial appropriation for a new park project.

We believe the following steps to put park land acquisition on the same basis as other land acquisition programs of the State could be taken without undue expense or loss of time.

a. All projects now appropriated should be carried to the land use plan stage, complete with reasonable estimates of the total cost of acquisition and development before approval of the control agencies is requested. Advance plans and the land use plan should be executed by a professionally qualified park planner and divided into phases which could serve as a guide for incremental acquisition in the event funds available for this purpose are not sufficient to make the entire acquisition at one time. In addition, the land use plan would serve as a guide for preparing the general development plans.
b. All future projects, not yet appropriated for, should follow essentially the same procedure as outlined above in addition should include costs of operation in the plan package *before* the Legislature is requested to appropriate funds for acquisition.
c. The criteria which guides the planning of all future parks should be amplified and updated to include present day concepts of conservation and recreation.
d. Future state parks should be planned as a segment of an overall recreational area which comprehends both private and public developments conforming to a careful zoning based on a master plan for development of the entire area.

3. State park rangers and persons with primarily park ranger backgrounds are utilized in positions for which they apparently have no professional training While apparently professionally qualified non-ranger staff members are kept at or below the senior level, rangers are given authority over professional classifications which receive higher pay.

We believe all staff members with outstanding administrative ability should be considered potential chiefs of the division—being afforded, as they qualify, responsibilities and experiences toward that goal

4. There is in the Division of Beaches and Parks an apparent difference of opinion regarding the primary role of the state park system and its development for conservation purposes versus active recreation purposes.

The philosophy of pure conservation appears to dominate acquisition and development policies of the division and the State Park Commission.

The major question that should be resolved involves the philosophy of the proper role of the State Park System—should it be the preserving, inviolate, of the outstanding landscapes of the State—or should it be the development of the system and its units to maximum potential for enjoyment of the scenic beauties afforded while at the same time providing for maximum practical development for active recreation and fam-

ily occupancy? With the whole broad field of outdoor recreation currently under extensive study, we think this basic question calls for a clear and comprehensive answer from the Legislature.

PERSONNEL PROBLEMS

The Personnel Board should be instructed to devise a set of procedures whereby "over-aged" Division of Forestry personnel could be afforded a lateral transfer into positions open within the Division of Beaches and Parks for which they are qualified and without interruption in their state service.

PART II

COMPARISON OF EXISTING CODE PROVISIONS WITH CHANGES RECOMMENDED BY DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF FINANCE, AND LEGISLATIVE ANALYST

The following is a section-by-section comparison of the revisions recommended by the Department of Natural Resources, the Department of Finance and the Legislative Analyst to the Natural Resources Code provisions which relate to the Division of Beaches and Parks and the State Park System.

The sections in the draft follow the order recommended by the Department of Natural Resources rather than the order of the existing code.

At the bottom of each Department of Natural Resources recommended section is a parenthetical note indicating the sections of the existing code the draft section is based upon. These notes apply also to the draft sections recommended by the Legislative Analyst.

Where a section of the existing code is amended but left essentially intact it will appear in the Department of Natural Resources and the Department of Finance draft recommendations as an amended paragraph with the amended language shown in underscore or strike out as the case may require.

Sections of the existing code which have been so completely revised that they lose their identity are quoted at the end of the draft as deletions from the code along with the sections which should be deleted in their entirety.

In the following draft "N" indicates the Department of Natural Resources, "F" indicates the Department of Finance recommendations and "L" indicates the Legislative Analyst's recommendations

Wherever in the comparisons there fails to be a recommendation by any one of the three proposals, this merely indicates that the section was simply not considered as being in need of change or is listed for deletion at the end of the comparisons.

DIVISION 1. DEPARTMENT OF NATURAL RESOURCES

N 504. The work of the department shall be divided into at least six divisions, known as the Division of Forestry, the Division of *Beaches and* Parks, the Division of Mines, the Division of Oil and Gas, the Division of Soil Conservation, and the Division of Small Craft Harbors.
(See 504, 1957 : 2362.)

L 504. Language the same as Department of Natural Resources above.

N 509. ~~The salaries of the chiefs of the Divisions of Forestry and Parks shall be fixed by the director with the approval of the Governor.~~ The director and the chief of each division, before entering upon his duties, shall execute and deliver to the State an official bond in the sum of twenty-five thousand dollars ($25,000) conditioned upon the faithful performance of his duties.
(Sec. 509, 1939:93.)

L 509. Language the same as Department of Natural Resources above.

DIVISION 5. PARKS, MONUMENTS, AND RECREATIONAL AREAS

CHAPTER 1. STATE PARK SYSTEM

Article 1. Administration

N 5000. Unless the context otherwise requires, the definitions contained in this article govern the construction of this chapter.
(New.)

L 5000. Language the same as Department of Natural Resources above.

N 5001. "Commission" means the State Park Commission
(New.)

L 5002. Language the same as Department of Natural Resources above.

N 5001.5 "Chief" means the Chief of the Division of Beaches and Parks.
(New.)

L 5003 1. Language the same as Department of Natural Resources above.

N 5002. "Department" means the Department of Natural Resources.
(New.)

L 5001. Language the same as Department of Natural Resources above.

N 5003. "Director" means the Director of Natural Resources.
(New.)

L 5002.1. Language the same as Department of Natural Resources above.

N 5004. "Division" means the Division of Beaches and Parks of the Department of Natural Resources
(New.)

L 5003. "Division" means the Division of Beaches and Parks.

N 5004.5. "Person" includes any natural person, firm, association, organization, partnership, business trust, corporation, or company, and includes the United States, State, city, county, city and county, district, or other public agency, and any department, agency, or instrumentality thereof.
(New.)

L 5004. Language the same as Department of Natural Resources above.

N 5005. The division shall be administered by a chief under the supervision of the director, in accordance with policies established by the commission. All powers and all duties now or hereafter vested in the division by this chapter or any other law shall be exercised and performed under the supervision of the director in accordance with general policies established by the commission.

(New, replaces portion of 1st para., Sec. 506, 1957:1897.)

F 506.7. The Division of Beaches and Parks is in charge of a chief, designated as the Chief of the Division of Beaches and Parks who is appointed by the director in accordance with the State Civil Service Act.

L 5005 The division shall be administered by a staff, under the supervision of the director, in accordance with policies established by the commission.

N 5006. The chief of the division shall have at least five years of executive experience in park, recreational, or related types of administration The commission shall select and nominate an individual exempt from civil service under subdivision (a)(5) of Section 4, Article XXIV of the State Constitution and the director shall appoint the individual so nominated as Chief of the Division of Beaches and Parks, who shall be removable by the commission Any such appointment by the director shall not be an exempt appointment to which the director is entitled under such subdivision, section and article of the Constitution.

(Replaces portion of 1st para , Sec 506, 1957·1897—see note to Sec 5005 of draft)

F 506.7. See 5005 above.

L 5006. The chief of the division shall be nominated by the director, appointed by the Governor, and serve at the pleasure of the director.

N 5007. The director may authorize the chief of the division to exercise his power to appoint employees of the division in accordance with the State Civil Service Act (commencing at Section 18500 of the Government Code). The director may authorize the chief of the division or, through the chief, any employee of the division to exercise any power granted or perform any duty imposed upon the director by the State Civil Service Act.

(Based on Sec. 5822, P. R C , re small craft harbors. Replaces Section 506.6, 1953:1859 Section 506.6 is unnecessary since under the draft the commission is to be a policy-making, rather than an administrative, agency.)

F 506.6 ~~The State Park Commission is hereby authorized and directed to appoint, in accordance with civil service and other provisions of law, such officers and other expert and clerical assistants as it may deem necessary.~~

The director may authorize the Chief of the Division of Beaches and Parks to exercise the director's power to appoint employees of the division in accordance with the State Civil Service Act. The director may authorize the chief or any employee of the division to exercise any power granted to, or to perform any duty imposed upon, the director by the State Civil Service Act.

L 5007. Language the same as Department of Finance, above.

N 5008. There is in the department the State Park Commission, consisting of seven members appointed by the Governor with the advice and consent of the Senate The members of the commission shall be selected from areas distributed throughout the State and because of their interest in park and conservation matters.

(Based on portions of Sec. 506, 1957:1897)

F 506. ~~The Division of Parks shall be administered through a chief who shall have at least five years of executive experience in park, recreational, or related types of administration, and who shall be appointed by the director upon nomination by the State Park Commission.~~ *There is in the Department of Natural Resources a State Park Commission consisting of seven members appointed by the Governor with the advice and consent of the Senate.* General policies for *the guidance of the director and the Chief of the Division of Beaches and Parks in connection with* the administration, protection, and development of the State Park System shall be determined by the State Park Commission ~~which shall consist of five members appointed by the Governor, with the advice and consent of the Senate.~~

L 5008. There is in the Department of Natural Resources a State Park Commission consisting of seven members appointed by the Governor, with the advice and consent of the Senate. General policies for the guidance of the director and the chief in connection with the administration, protection, development and expansion of the state park system, shall be determined by the commission

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N 5009 The terms of the members of the commission shall expire as follows: two members January 15, 1959, two members January 15, 1960, two members January 15, 1961, and one member January 15, 1962. Thereafter the members shall serve for terms of four years and until their successors are appointed and qualified Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term All appointments of members made when the Legislature is not in session shall be subject to confirmation by the Senate at the next regular or special session of the Legislature.

(Based on portion of Sec. 506, 1957:1897.)

F 506 The members of the State Park Commission shall be selected from areas distributed throughout the State and because of their interest in park, *recreation,* and conservation matters

and shall serve for terms of four years and until their successors are appointed and qualified. The Governor shall make the first appointments hereunder for terms expiring, respectively, on the fifteenth day of January, as follows: two in the year 1947, two in the year 1948, and one in the year 1949.

The two new members added to the commission by the amendment made to this section by the Legislature at the 1957 Regular Session shall be appointed by the Governor for terms expiring, one on the fifteenth day of January, 1958, and one on the fifteenth day of January, 1961.

The Governor shall specify, previous to July 1, 1946, a termination date of appointment, coincident with January 15th, for the members holding office at his pleasure.

In case of any vacancy the appointment shall be for the remainder of the unexpired term. All appointments of members made when the Legislature is not in session shall be subject to confirmation by the Senate at the next regular or special session of the Legislature

L 5009. The members of the State Park Commission shall be selected from areas distributed throughout the State and because of their interest in park, recreation and conservation matters. The terms of the members of the commission shall expire as follows: two members January 15, 1959, two members January 15, 1960, two members January 15, 1961, and one member January 15, 1962. Thereafter the members shall serve for terms of four years and until their successors are appointed and qualified Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. All appointments of members of the commission made when the Legislature is not in session shall be subject to confirmation by the Senate at the next regular or special session of the Legislature.

N 5010. The commission shall elect a chairman and a vice chairman from their number who shall serve for one year and until successors are elected.

The chief of the division shall act as secretary of the commission.

(New.)

F 506. *The commission shall elect a chairman from their number who shall serve as chairman for one year and until his successor is elected.*

The Chief, Division of Beaches and Parks, shall act as secretary of the commission.

L 5010. The commission shall elect a chairman from their number who shall serve as chairman for one year and until his successor is elected.

N *5011.* ~~506.1.~~ All meetings of the commission shall be open and public.

~~506.2.~~ All records of the commission shall be open to inspection by the public during regular office hours.

(Secs. 506.1 and 506.2, 1957: 2200.)

L 5011. All meetings of the commission shall be open to the public. All records of the commission shall be open to inspection by the public during regular office hours

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F 5001 The Department of Natural Resources, through the ~~State Park Commission~~ *Division of Beaches and Parks and subject to general policies formulated by the State Park Commission*, has control of the State Park System.

L 5012. Language the same as Department of Finance above.

Article 2. State Park System

N 5015 The State Park System includes all parks, museums, monuments, landmarks, and riding and hiking trails, and all other properties heretofore or hereafter acquired by, or under the jurisdiction of, the commission or the division.

(Replaces Sec. 5002, 1939: 93.)

F 5002. All parks, public camp grounds, *recreational areas, riding and hiking trails*, monument sites, landmark sites, and sites of historical interest established or acquired by the State, or which are under its control, constitute the State Park System except *the Chief Solano monument,* the sites and grounds known as the State Fair Grounds in the City of Sacramento, and Balboa Park in the City of San Diego. *The maintenance of the Chief Solano monument shall, however, be under the control and management of the Division of Beaches and Parks.*

L 5014. All parks, public camp grounds, recreational areas, museums, monuments, landmarks and riding and hiking trails, and all other properties heretofore or hereafter acquired by or under the jurisdiction of the commission or the department, shall constitute the State Park System.

N 5016. The chief, under the supervision of the director and subject to such policies as are adopted by the commission, shall administer, protect, and develop the State Park System for the use and enjoyment of the public

(Replaces Sec 5001, 1939: 93, and 1st sent., Sec 5003, 1957 · 643.)

F 5003. The ~~State Park Commission~~ *Director through the Division of Beaches and Parks* shall administer, protect, and develop the State Park System for the use and enjoyment of the public *in accordance with policies established by the State Park Commission.* ~~It~~ *The Director, subject to the approval of the commission,* may establish rules and regulations not inconsistent with law for the government and administration of the State Park System ~~It may enter into contracts with cities, counties, or other subdivisions of the State, for the care and maintenance of park areas, and it may expend all moneys of the State Park Commission, from whatever source derived, for the care, protection, supervision, extension and improvement or development of the State Park~~

~~System. The commission shall obtain the approval of the Department of Finance before entering into any such contract if the contract would authorize occupancy for a period of more than one year of property owned by the State.~~

L 5016. The Director of Natural Resources, through the Division of Beaches and Parks, shall administer, protect, develop and expand the state park system for the use and enjoyment of the public in accordance with policies established by the State Park Commission. The director, subject to the approval of the commission, may establish rules and regulations not inconsistent with law, for the government and administration of the state park system Such regulations shall be adopted pursuant to the Administrative Procedure Act and shall exclusively regulate the state park system.

F 5013. The ~~department~~ *State Park Commission* may *authorize the department to* acquire, purchase, and obtain objects of historical interest, and *to* purchase sites for and establish and maintain museums for such objects

L 5015. Language the same as Department of Finance above.

N 5017 The commission shall, without limitation on other powers elsewhere granted to the commission, have the following powers and powers incidental thereto:

(a) To establish policies for the guidance of the director and the chief in the administration, protection, and development of the state park system.

(b) To make regulations for the protection, control, and use of the state park system. Such regulations shall be adopted pursuant to the Administrative Procedure Act and shall exclusively regulate the state park system.

(c) To establish fees, rental, and other returns for the use by the general public of state park system facilities and of special transportation and other facilities for the security of valuable installations, whenever in the commission's judgment it is practicable to do so.

(Based on draft prepared by Attorney General. Replaces 2nd sent., 1st para., Sec. 506, 1957:1897, 2nd sent, Sec 5003, 1957.643; and portion of 1st sent, Sec. 5010, 1957:2127 Sec. 506.7 deleted at request of Department of Natural Resources.)

N 5019. The division shall prepare, maintain, and submit to the commission for its approval, master plans for the development of projects included in the state park system. Each plan shall describe the areas to be developed as part of the state park system and the use to be made of such areas. Before any new areas are included within a master plan for development, the division shall consider whether such areas can support such development and resulting use, including in its consideration such factors as soil, moisture, and natural cover. Any proposed modifications of, or additions to,

a master plan shall be submitted to the commission for its approval.

(New. See 1958 Report of the Director of Natural Resources, pages 3 and 4. Incorporates Sections 5019.5, 1957: 1390, as revised at request of Department of Natural Resources.)

N 5020. When the commission has adopted a general plan of a project for a state park, the chief may with the consent of the Director of Finance, acquire within such general plan, by purchase, by agreement with other public agencies, including the United States, with or without monetary consideration, or by agreement pursuant to Section 13110 of the Government Code, any interest in real and personal property, including but not limited to leaseholds or options

(Prepared by Attorney General. Replaces 1st para., Sec. 5006, 1947: 961; Sec. 5006.5, 1951: 1151; Sec. 5013, 1939: 93; and all of Art. 5 (commencing at 5060). Sec. 5006.5 and Art. 5 obsolete—memorandum of E. A. Aronstein, June 5, 1958.)

F 5006.5. The ~~State Park Commission~~ *Director subject to the approval of the State Park Commission and* with the consent of the Department of Finance, may lease any interest in real property which the ~~commission~~ *Director* deems necessary or proper for the extension, improvement, or development of the State Park System. ~~No payments from state money in excess of one thousand dollars ($1,000) a year shall be made pursuant to any such lease unless and until money equal to or exceeding one-half of the excess over one thousand dollars ($1,000) shall have been made available for expenditure by the State for the purpose by some person, corporation, public district, municipality or political subdivision other than the State, or by the United States or an agency thereof.~~

L 5020. The director, subject to the approval of the State Park Commission and with the consent of the Department of Finance may, with or without monetary consideration, acquire any interest in real property, including but not limited to leaseholds and options which the director deems necessary or proper for the extension, improvement or development of the state park system.

N 5021. *The commission may acquire title to or any interest in real or personal property by condemnation and proceedings brought in the name of the people of the State of California. Such* proceedings ~~for the condemnation of any real or personal property or any interest therein~~ shall be taken *by the commission* under the provisions of the Code of Civil Procedure relating to eminent domain. The commission shall not commence any such proceedings unless it first adopts, *and the Department of Finance approves*, a resolution declaring that public interest and necessity require acquisition by the State of the property or interest therein, described in the resolu-

tion, and that such acquisition is necessary and proper for the extension, improvement, or development of the State Park System.

(2nd para., Sec. 5006, 1947:961. See 1958 Report of Director of Natural Resources, page 3.)

F 5006. The State Park Commission, with the consent of the Department of Finance, may *authorize the Director through the Division of Beaches and Parks to* acquire by purchase or by condemnation proceedings brought in the name of the people of the State of California, title to or any interest in real and personal property which the commission deems necessary or proper for the extension, improvement, or development of the State Park System.

Proceedings for the condemnation of any real or personal property or any interest therein shall be taken under the provisions of the Code of Civil Procedure relating to eminent domain. The commission shall not *authorize the Director to* commence any such proceedings unless it first adopts a resolution declaring that public interest and necessity require acquisition by the State of the property or interest therein, described in the resolution, and that such acquisition is necessary and proper for the extension, improvement, or development of the State Park System.

L 5021. The State Park Commission may authorize the director to acquire by purchase or condemnation proceedings brought in the name of the people of the State of California, title to or any interest in real and personal property which the commission deems necessary or proper. Acquisitions so authorized, whether by purchase or condemnation proceedings, shall be subject to approval of the Department of Finance and Legislative appropriations.

L 5021.1 The commission shall not adopt a resolution authorizing the acquisition of any real property involving the expenditure of state funds unless at least 30 days prior to its adoption the master plan of the project, in which the property to be acquired is located and precisely delineated, has been presented to the county board of supervisors of the county wherein the property lies. The master plan of the project shall be presented to the board of supervisors at a regular meeting of said board.

N 5022. ~~5006.1.~~ The resolution of the commission shall be conclusive evidence:

(a) Of the public necessity of such proposed acquisition.
(b) That such real or personal property or interest therein is necessary therefor.
(c) That such proposed acquisition is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

(Sec. 5006.1, 1947:961.)

F 5006. See 5021 above.

L 5022. Proceedings for the condemnation of any real or personal property of any interest therein shall be taken under the provisions of the Code of Civil Procedure relating to eminent domain. The commission shall not authorize the director to commence any such proceedings unless it first adopts a resolution declaring that public interest and necessity require acquisition by the State of the property or interest therein, described in the resolution, and that such acquisition is necessary and proper for the extension, improvement and/or development of the state park system. The resolution of the commission shall be conclusive evidence:

(a) Of the public necessity of such proposed acquisition,
(b) That such real or personal property or interest therein is necessary,
(c) That such proposed acquisition is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

N 5023. ~~5005.~~ The ~~State Park~~ commission may, *with the consent of the Director of Finance,* ~~receive and~~ accept in the name of the people of the State any gift, *legacy,* devise, grant, or other conveyance of ~~title to or~~ any interest in *and to* real *or personal* property ~~, including water rights, roads, trails, and rights of way, to be added to or used in connection with the park system. It may receive and accept gifts, donations, contributions, or bequests of money to be used in acquiring title to or any interest in real property, or in improving it as a part of or in connection with the state park system, or to be used for any of the purposes for which the commission is created. It may also receive and accept personal property for any purpose connected with the park system.~~

F 5005. The State Park Commission, *subject to the provisions of Section 11005 of the Government Code,* may receive and accept in the name of the people of the State any gift, devise, grant, or other conveyance of title to or any interest in real property, including water rights, roads, trails, and rights of way, to be added to or used in connection with the park system ~~. It~~ *and* may receive and accept gifts, donations, contributions, or bequests of money to be used in acquiring title to or any interest in real property, or in improving it as a part of or in connection with the State Park System, or to be used for any of the purposes for which the commission *or the Division of Beaches and Parks* is created.

It may also receive and accept personal property for any purpose connected with the park system.

L 5023. The State Park Commission, subject to the provisions of Section 11005 of the Government Code, may receive and accept in the name of the people of the State any gift, legacy, devise, grant or other conveyance of title to or interest in real or personal property for any purpose in connection with the state park system.

N *5021.* ~~5019.~~ When property is deeded to the State for ~~park or beach purposes~~ *purposes of the state park system,* oil and mineral rights in such property may be reserved in such deeds by the grantor; provided, that any prospecting or extracting of oil and minerals shall in no manner disturb the surface of such property or any improvements placed in or upon the property in pursuit of its use for recreation.

(Sec. 5019, 1947:441.)

L 5024. Language the same as Department of Natural Resources **above.**

N *5025.* ~~5005.1.~~ The ~~Division of Beaches and Parks~~ *division* may, with approval of the Department of Finance, transfer, sell or otherwise dispose of personal property under its jurisdiction and may contract with other public agencies for its custody.

(Sec. 5005.1; 1957:373.)

L 5025. The director, with the approval of the State Park Commission and the Department of Finance, may transfer, sell or otherwise dispose of personal property under the jurisdiction of the commission and may contract with other public agencies for its custody.

N 5027 The commission may, where it finds no substantial interference with, or impairment of, state park use and values, authorize the division to grant permits and easements for the following purposes and upon such terms as the commission may prescribe:

(a) To a public agency for public roads.

(b) To a public agency for utility lines.

(c) For electric, gas, water, sewer, telephone, telegraph, and utility lines, and pipelines and structures incidental thereto, to perform a public service.

(d) To a public agency for channels or facilities for the development of small craft harbors and recreational areas.

(Based on draft prepared by Attorney General. Subs. (a) and (c) replace Sec. 5012 Subs. (b), (c), and (d) are new.)

F 5012 The director ~~of Natural Resources~~, upon application by the proper authorities *and subject to the approval of the Commission* ~~and on such terms and conditions as the State Park Commission may prescribe~~, may grant easements for public highways over and across State park lands under the jurisdiction of the department ~~and the State Park Commission~~.

F 5012.1. ~~The State Park Commission upon application by any public utility, either publicly or privately owned, shall specify the location, manner of construction, and maintenance of light, power, gas, water, telephone and telegraph lines across state park lands under the jurisdiction of the State Park Commission unless the commission finds that the construction and maintenance of such utility structures unduly and measurably interfere with the development, use and enjoyment of the State Park System, provided that if at any time the~~

~~location of such structures interferes with the development, use and enjoyment of the state park on which they are located they will on demand of the commission, be moved to another location designated by the commission, at the expense of the owner thereof.~~

The ~~commission~~ *department* may, upon application therefor, grant easements, upon terms and conditions prescribed by the ~~commission~~ *department*, for ~~such~~ public utility *and other* structures across state park lands when in ~~their~~ *its* judgment the public necessity requires that the structure be permanent and the nature of the structure may reasonably be permanently located or may be of a nature, such as underground construction, that would not interfere with the development, *public use, and enjoyment* of the state park.

L 5027. The director may, subject to approval of the commission, and where he finds no substantial interference with or impairment of state park values, may grant easements for the following purposes, and upon such terms as the director may prescribe:

(a) To a public agency for public roads.

(b) To a public agency for utility lines.

(c) For electric, gas, water, sewer, telephone, telegraph, and utility lines and pipelines, and structures incidental thereto, to perform a public service.

(d) To a public agency for channels or facilities for the development of small craft harbors and recreation areas.

N 5028. ~~5003.5~~ The ~~State Park~~ Commission ~~is authorized to~~ *may* provide means of ingress to and egress from all state parks in order to provide ready access thereto by the public and to provide means of ingress and egress to highways and roads across state parks from lands separated from such highways and roads by state parks, and for that purpose may enter into contracts or agreements with cities, counties, and other political subdivisions of the State and with other state agencies or with persons, firms or corporations for the acquisition, construction, and maintenance of suitable roads, trails, and pathways.

When application is received by the State Park Commission, other than under *subdivision (a) of Section 5027* ~~Section 5012~~, from any person, firm or corporation for right of way across a state park for ingress and egress to a highway or road from their lands separated from such highway or road by the state park, the commission shall determine whether any reasonable access exists outside the boundaries of the park, or could be economically constructed. Where reasonable access does not exist or cannot be economically constructed outside the boundaries of the park, the commission shall grant a permit for right of way across the park over such route and subject to such conditions and construction and maintenance specifications as the commission may determine which will cause minimum alteration to the physical features of the park and minimum interfer-

ence with the use of the park by the public. The permittee shall at his own expense construct and maintain the means of ingress and egress in accordance with the terms and conditions set forth in the permit, noncompliance with which in any part shall be due cause for revocation of such permit. The commission may require a permittee or permittees to allow the use of such means of ingress and egress by any other applicant whose lands are similarly situated. The commission shall grant a permit for such use under terms and conditions imposed upon existing users, upon payment of a reasonable compensation for construction and maintenance of the road, by the applicant to the existing permittee, or permittees.

(Sec 5003.5, 1949 1535.)

F 5003 5 The ~~State Park Commission~~ *director* is authorized to provide means of ingress to and egress from all state parks in order to provide ready access thereto by the public and to provide means of ingress and egress to highways and roads across state parks from lands separated from such highways and roads by state parks, and for that purpose may enter into contracts or agreements with cities, counties, and other political subdivisions of the State and with other state agencies or with persons, firms or corporations for the acquisition, construction, and maintenance of suitable roads, trails, and pathways.

When application is received by the ~~State Park Commission~~ *department*, other than under Section 5012, from any person, firm or corporation for right of way across a state park for ingress and egress to a highway or road from their lands separated from such highway or road by the state park, the ~~commission~~ *department* shall determine whether any reasonable access exists outside the boundaries of the park, or could be economically constructed. Where reasonable access does not exist or cannot be economically constructed outside the boundaries of the park, the ~~commission~~ *director* shall grant a permit for right of way across the park over such route and subject to such conditions and construction and maintenance specifications as the ~~commission~~ *department* may determine which will cause minimum alteration to the physical features of the park and minimum interference with the use of the park by the public. The permittee shall at his own expense construct and maintain the means of ingress and egress in accordance with the terms and conditions set forth in the permit, noncompliance with which in any part shall be due cause for revocation of such permit. The ~~commission~~ *director* may require a permittee or permittees to allow the use of such means of ingress and egress by any other applicant whose lands are similarly situated. The ~~commission~~ *director* shall grant a permit for such use under terms and conditions imposed upon existing users, upon payment of a reasonable compensation for construction and maintenance of the road, by the applicant to the existing

permittee, or permittees. The director may provide means
L 5028. of ingress to and egress from all state parks, in order to provide ready access thereto by the public, and to provide means of ingress and egress to highways and roads across state parks from lands separated from such highways and roads by state parks, and for that purpose may enter into contracts or agreements with cities, counties and other political subdivisions of the State, and with other state agencies or with persons, firms or corporations for the acquisition and maintenance of suitable roads, trails and pathways.

When application is received by the department, other than under Section 5027, from any person, firm or corporation for right of way across a state park, for ingress and egress to a highway or road from their lands separated from such highway or road by the state park, the department shall determine whether any reasonable access exists outside the boundaries of the park or could be economically constructed outside the boundaries of the park, the director shall grant a permit for right of way across the park, over such route and subject to such conditions and construction and maintenance specifications as the department may determine will cause minimum alteration to the physical features of the park and minimum interference with the use of the park by the public. The permittee shall, at his own expense, construct and maintain the means of ingress and egress in accordance with the terms and conditions set forth in the permit, noncompliance with which in any part shall be due cause for revocation of such permit. The director shall grant a permit for such use under terms and conditions imposed upon existing users, upon payment of reasonable compensation for construction and maintenance of the road by the applicant to the existing permittee or permittees.

N 5030. The commission, subject to the approval of the Department of Finance, may authorize the division to enter into contracts with other agencies of the State, the United States, and cities, counties, districts, and other political subdivisions of the State, for the development, care, maintenance or control for the purposes of the State Park System, by either party to the contract, of areas under the jurisdiction of the other party to the contract. The expenses of the development, care, maintenance or control may be paid from the general fund of the city, county, district or other political subdivision of the State, or from funds available for expenditure by the division, as the case may be.

(New Section drafted by Department of Natural Resources. Replaces Sec. 5007, 1939:93, and 2nd and 3rd paras. of Sec. 5003, 1957:643.)

F 5007. *The department, subject to the approval of the commission may enter into contracts with the Federal Government.* ~~Contracts may be entered into between the State Park Commission and~~ cities, counties and other political subdivisions

of the State for the care, maintenance, and control, for the purposes of the State Park System, by either party to the contract, of lands under the jurisdiction of the other party to the contract. The expenses of the care, maintenance, and control may be paid from the general fund of the city, county, or other political subdivision of the State or from ~~the~~ funds *available for expenditure by the Division of Beaches and Parks* ~~of the State Park Commission,~~ as the case may be.

L 5030. The department, subject to approval of the commission, may enter into contracts with the Federal Government, cities, counties and other political subdivisions of the State, for care, maintenance, and control for the purposes of the State Park System, by either party to the contract. The expenses of the care, maintenance and control may be paid from the general fund of the city, county or political subdivision of the State or from the funds available for expenditure by the division, as the case may be.

N 5031. ~~It~~ *The division* may enter into contracts with persons, ~~firms or corporations~~ *as above defined,* to maintain and operate concessions within *any portion of* the State Park *System* ~~areas~~ for the safety and convenience of the general public in the use and enjoyment of the State Park System. *All such contracts shall be subject to any master plan of the commission for the use and development of a state park area. All such contracts shall be subject to the approval of the Department of Finance if the contract extends for a period of one year of more.* ~~The commission shall obtain the approval of the Department of Finance before entering into such contract if the contract would authorize occupancy for a period of more than one year of property owned by the State.~~

(2nd para., Sec. 5003, 1957 : 643. "Districts" added due to 3rd para. of existing Sec. 5003, re regional park districts—see relevant portion of Sec. 5003 as set forth in note to Sec. 5030 of draft. Last sentence added at request of Department of Natural Resources.)

F 5003.1 The director may enter into contracts with cities, counties, other subdivisions of the State, for the care and maintenance of park areas. The director may also enter into contracts with persons, firms or corporations to maintain and operate concessions within the state park areas for the safety and convenience of the general public in the use and enjoyment of the State Park System subject to a policy statement by the commission as to the need and type of concession for each park area.

The director, prior to entering into any contract pursuant to this section, shall obtain the approval of the Director of

L 5031. Finance. The director may enter into contracts with cities, counties or subdivisions of the State for the care and maintenance of park areas. The director may also enter into contracts with persons, as defined, to maintain and operate

concessions within the state park areas for the safety and convenience of the general public in the use and enjoyment of the State Park System, subject to a policy statement by the commission as to the need and type of concession for each park area.

The director, prior to entering into any contract pursuant to this section, shall obtain the approval of the Director of Finance.

N *5032.* ~~5008.~~ The *division* ~~State Park Commission~~ shall protect the ~~State parks~~ *state park system* from damage and preserve the peace therein.

~~The commission may confer on the Chief of the Division of Parks and other employees which it may designate, the full authority and powers of peace officers for State parks.~~

The chief of the division and such officers and employees of the division as he may designate have the full authority and powers of peace officers for the state park system.

(1st and 2nd paras., Sec. 5008, 1939:93.)

F 5008 The ~~State Park Commission~~ *department through the Division of Beaches and Parks* shall protect the State parks from damage and preserve the peace therein.

The ~~commission~~ *director* may confer on the Chief of the Division of Beaches and Parks and other employees which ~~it~~ *he* may designate, the full authority and powers of peace officers for State parks.

Any person who violates the rules and regulations established by the ~~State Park Commission~~ *department* is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

L 5032. The department, through the division, shall protect the state park system from damage and preserve the peace therein.

The director may confer on the chief of the division and other employees which he may designate full authority and powers as peace officers for the state park system.

Any person who violates the rules and regulations established by the department is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail, not to exceed 90 days or by a fine not exceeding five hundred dollars, or both such fine and imprisonment.

N 5033. The division shall make an annual report to the director for transmission to the Governor concerning the state park system and the activities of the division. Any recommendations concerning the state park system as to legislation or as to action by the Governor shall be made by the commission and included in the annual report of the division.

(Replaces Sec. 5004, 1939·93. See 1958 Report of Director of Natural Resources, p. 3)

F 5004. *The Director shall make an annual report to the Governor concerning the State Park System and the activities of the*

division, and may include in such report a report of the State Park Commission. ~~The State Park Commission shall gather, digest, and summarize, in its annual reports to the Governor, information concerning the State Park System and the relation to it of other available means for conserving, developing, and utilizing the scenic and recreational resources of the State.~~

L 5033. Language the same as Department of Finance above.

N 5034. The State Beach and Park Fund is continued in existence. All moneys received by the division or the commission from any source, including eminent domain, except moneys received under Section 5035, shall be deposited in the State Treasury to the credit of the State Beach and Park Fund. The moneys in the State Beach and Park Fund are appropriated to the division for the improvement, equipment, and maintenance of the state park system, and when specifically appropriated by the Legislature for construction and acquisition of projects of the state park system..

All moneys in the State Beach Fund, the State Park Fund and the State Park Maintenance Fund are hereby transferred to the State Beach and Park Fund and all moneys now appropriated from the above-named funds are considered appropriated from the State Beach and Park Fund, and such appropriations shall remain available for the same period as they were originally made. The State Beach Fund, the State Park Fund and the State Park Maintenance Fund are abolished. All references in any law heretofore or hereafter enacted to any of such funds shall be deemed to refer to the State Beach and Park Fund.

(Based on Sec. 5010, 1957:2127; and portion of 3rd sent., 1st para., Sec. 5003, 1957:643.)

F 5010. The State Park Commission, whenever in its judgment it is practicable to do so, ~~shall collect~~ *may fix* fees, rentals, and other return for the use of any state park area, *by members of the general public.* ~~the amounts to be determined by the Park Commission and to be paid into the State Treasury to the credit of the State Beach and Park Fund, which is hereby created. The State Beach and Park Fund and all moneys received by the commission from any source, including eminent domain, except those received under Section 5009, are hereby continually appropriated for improvement, equipment and maintenance of state parks, state monuments, roads, roadside rests, trails and pathways, and when specifically appropriated by the Legislature for construction and acquisition of the above named projects~~.

The director may collect such fees, rentals, and other returns and bring action therefor in the name of the People. All moneys received from any source, including eminent domain, except those funds received under Section 5009, shall be paid into the State Treasury to the credit of the State Beach and Park Fund, which is hereby created. This fund is

continually appropriated for the improvement, equipment, and maintenance of State Parks, recreation areas, State monuments, roads, roadside rests, trails, and pathways, and when specifically appropriated by the Legislature for the construction and acquisition of the above named projects.

All moneys in the State Beach Fund, the State Park Fund and the State Park Maintenance Fund are hereby transferred to the State Beach and Park Fund and all moneys now appropriated from the above-named funds are considered appropriated from the State Beach and Park Fund, and such appropriations shall remain available for the same period as they were originally made. The State Beach Fund, the State Park Fund and the State Park Maintenance Fund are abolished. All references in any law heretofore or hereafter enacted to any of such funds shall be deemed to refer to the State Beach and Park Fund.

This section shall not be construed to authorize the State Park Commission to prescribe the compensation to be received by the State for the granting of easements, leases, rights of way, and similar interests in State Park areas, which compensation shall be fixed by the department.

5003.2 The Department, subject to the provisions of Article 2, Chapter 3, Part 3, Division 3, Title 2, of the Government Code, may expend moneys available to it or to the State Park Commission, from whatever source derived, for the care, protection, supervision, extension, and improvement of the State Park System.

L 5034. The State Park Commission, whenever in its judgment it is practicable to do so, may fix fees, rentals and other return for the use of any state park area, by members of the general public. The director shall collect such fees, rentals, and may bring action therefor in the name of the people. All moneys received from any source, including eminent domain, except moneys received under Section 5035, shall be paid into the State Treasury to the credit of the State Beach and Park Fund which is continued in existence.

This section shall not be construed to authorize the State Park Commission to prescribe the compensation to be received by the State for the granting of easements, leases, rights of way and similar interests in state park areas which compensation shall be fixed by the department.

(See 5017 (c).)

L 5034.1 The moneys in the State Beach and Park Fund are appropriated to the Department of Natural Resources for the improvement, equipment and maintenance of the state park system, and when specifically appropriated by the Legislature for construction and acquisition of projects of the state park system.

All moneys in the State Beach Fund, the State Park Fund and the State Park Maintenance Fund are hereby transferred to the State Beach and Park Fund, and all

moneys now appropriated from the above-named funds are considered appropriated from the State Beach and Park Fund, and such appropriations shall remain available for the same period as they were originally made The State Beach Fund, the State Park Fund, and the State Park Maintenance Fund are abolished All references in any law heretofore or hereafter enacted to any such funds shall be deemed to refer to the State Beach and Park Fund.

L 5034 2 The department, subject to the provisions of Article 2, Chapter 3, Part 3, Division 3, Title 2 of the Government Code, may expend moneys available to it or to the State Park Commission from whatever source derived, for the care, protection, supervision, extension and improvement of the state park system.

N *5035.* ~~5009.~~ The State Park Contingent Fund is continued in existence. All moneys collected or received from gifts or bequests, or from municipal or county appropriations or donations for improvements or additions to the state park system shall be deposited in the State Treasury to the credit of the contingent fund. All moneys so deposited shall be used for the improvement or administration of ~~State parks~~ *the state park system*, or the acquisition of additional lands and properties for the state park system, in accordance with the terms of the gift, bequest or municipal or county appropriation or donation from which the moneys are derived.

(Sec. 5009, 1939:93)

L 5035 Language the same as Department of Natural Resources above.

N *5036.* ~~5010.5.~~ The ~~Director of Natural Resources~~ *division* may authorize the refund of moneys received or collected by ~~himself or by the Division of Beaches and Parks~~ *it* illegally, or by mistake, inadvertence, or error. Claims ~~authorized by the director~~ shall be filed with the State Controller and the Controller shall draw his warrant against the ~~State Beach Fund or State Park Fund~~ *State Beach and Park Fund* in payment of such refund from any appropriation made for that purpose.

(Sec. 5010.5, 1957:1166.)

F 5010.5 The director may authorize the refund of moneys received or collected by himself or by the Division of Beaches and Parks illegally, or by mistake, inadvertence, or error. Claims authorized by the director shall be filed with the State Controller and the Controller shall draw his warrant against The State Beach and Park Contingent Fund in payment of such refund.

L 5036. The director may authorize the refund of moneys received or collected by himself or by the division, illegally or by mistake, inadvertence or error. Claims authorized by the Controller shall be filed with the State Controller, and the

Controller shall draw his warrant against the State Beach and Park Fund in payment of such refund.

N 5037. Any person who violates the rules and regulations established by the ~~State Park Commission~~ *commission* is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

(3rd para., Sec. 5008, 1939:93.) (See 5032 of draft)

N 5038. Whenever the chief of the division or officer or employee of the division designated as a peace officer pursuant to Section 5032 arrests any person for a violation of any rule or regulation of the commission or for trespass upon areas of the state park system he may in his discretion forthwith release the arrested person from custody in the manner and under the conditions set forth in this section.

Unless an immediate appearance before a magistrate is demanded by such person, the arresting officer, upon production of satisfactory evidence of identity, may take the name and address of the person arrested and, if he believes such promise will be kept, may allow the person to sign a written promise to appear at a time and before a magistrate therein specified. The arresting officer shall deliver a copy of the promise to the person making it, and shall release him from custody. The magistrate specified in the promise shall be the magistrate of the court having jurisdiction of the particular offense for which the arrest was made. The time specified shall not be more than 30 days from and after the date of the arrest.

Any person who willfully violates his promise given in accordance with this section is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested. A promise to appear may be complied with by an appearance by counsel.

(New. Included at request of Department of Natural Resources. Based on Sec. 4012, P. R. C.) (See 5032 of Draft.)

Article 3. Registered State Landmarks

N 5046. "Committee," as used in this article, means the Historical Landmarks Advisory Committee.

(New.)

L 5041. Language the same as Department of Natural Resources above.

N 5047. ~~(c) The Term~~ "Landmarks~~,~~" *as used* in this article, ~~shall mean~~ *means* historical buildings, sites, and places deemed important in the economic, social, political, military, and cultural annals of California

(Subd. (c), Sec 5020; 1949:143.)

L 5042. Language the same as Department of Natural Resources above.

N 5048 The commission may appoint an Historical Landmarks Advisory Committee of seven members to include such persons as it may deem are best qualified to carry out the purposes of this article and who shall serve without compensation and shall hold office at the pleasure of the commission

(Replaces subd (a), Sec. 5020, 1949:143)

F 5020. (a) The ~~Governor~~ *director* is hereby authorized to appoint an Historical Landmarks Advisory Committee of seven members to include such persons as he may deem are best qualified to carry out the purposes of this article and who shall serve without compensation and shall hold office at the pleasure of the ~~Governor~~ *director* .

L 5043. The director may appoint an Historical Landmarks Advisory Committee of seven members to include such persons as he may deem are best qualified to carry out the purposes of this article, and who shall serve without compensation and shall hold office at the pleasure of the director.

N *5049.* ~~5020. (b)~~ The ~~Historical Landmarks Advisory~~ committee ~~shall have authority~~ *may* :

(a) ~~1.~~ ~~To~~ Make a census of all existing historical ~~buildings or~~ landmarks heretofore registered by the ~~Department of Natural Resources~~ *department* , or privately marked by *any private or public agency, historical society, or patriotic organization* ~~the Native Sons and Daughters of the Golden West, or privately marked by any other public agency or local historical society.~~

(b) ~~2.~~ ~~To~~ Conduct a continuing survey of all *historical landmarks in the State* ~~important historical sites in the State,~~ whether previously registered or not, and recommend to the ~~State Park~~ commission those which, in its opinion, shall be officially registered.

(c) ~~3.~~ ~~To~~ Receive and consider applications *for the registration and marking of historical landmarks* ~~from any governmental agency, historical association or private individuals for the designation and registration of any historical building or landmark~~ .

(d) ~~4.~~ ~~To~~ Recommend to the ~~State Park~~ commission the qualifications for acceptance of registered historical *landmarks and the marking thereof* ~~buildings and landmarks which shall include but are not limited to military, political, agricultural, educational, economic and cultural events and locations within the State~~ .

~~5. To Recommend to the State Park Commission the type of plaque and the descriptive material to be included thereon to be required before marking any historical landmark or building.~~

~~6. To Recommend to the State Park Commission those historical buildings and landmarks which it determines are qualified for marking.~~

(Subd. (b), Sec. 5020. 1949:143.)

F 5020 (b) The Historical Landmarks Advisory Committee shall have authority:

1 To make a census of all existing historical buildings or landmarks heretofore registered by the Department of Natural Resources, or privately marked by the Native Sons and Daughters of the Golden West, or privately marked by any other public agency or local historical society.

2. To conduct a continuing survey of all important historical sites in the State, whether previously registered or not, and recommend to the ~~State Park Commission~~ *director* those which, in its opinion, shall be officially registered.

3. To receive and consider applications from any governmental agency, historical association or private individuals for the designation and registration of any historical building or landmark.

4 To recommend to the ~~State Park Commission~~ *director* the qualifications for acceptance of registered historical buildings and landmarks which shall include but are not limited to military, political, agricultural, educational, economic and cultural events and locations within the State.

5. To recommend to the ~~State Park Commission~~ *director* the type of plaque and the descriptive material to be included thereon to be required before marking any historical landmark or building.

6. To recommend to the ~~State Park Commission~~ *director* those historical buildings and landmarks which it determines are qualified for marking

(c) The term "landmarks" in this article shall mean historical buildings, sites and places deemed important in the economic, social, political, military and cultural annals of California.

L 5044. The committee may:

(a) Make a census of all existing historical landmarks heretofore registered by the department or privately marked by any private or public agency, historical society, or patriotic organization

(b) Conduct a continuing survey of all historical landmarks in the State, whether previously registered or not, and recommend to the director those which in its opinion shall be officially registered.

(c) Receive and consider applications for the registration and marking of historical landmarks, and recommend to the director those which in its opinion ought to be officially registered.

(d) Recommend to the director the qualifications for acceptance of registered landmarks and the marking thereof.

N *5050.* ~~5021~~ The ~~State Park~~ commission shall consider all recommendations made by the ~~Historical Landmarks Advisory~~

committee and shall certify to the ~~Director of Natural Resources~~ *division* all ~~historical buildings or~~ landmarks which in ~~the~~ *its* judgment ~~of the State Park Commission~~ or of sufficient historical interest to warrant registration under this article~~,~~. ~~and upon the approval of the Director of Natural Resources, it~~ *The commission* shall maintain a register which shall identify by number and description such ~~historical buildings and~~ landmarks

(Sec. 5021, 1949:143.)

F 5021. The ~~State Park Commission~~ *department* shall consider all recommendations made by the Historical Landmarks Advisory Committee and shall *register* ~~certify to the Director of Natural Resources all~~ historical ~~buildings or~~ landmarks which in ~~the~~ *its* judgment ~~of the State Park Commission~~ are of sufficient historical interest to warrant registration under this article~~,~~. ~~and upon the approval of the Director of Natural Resources, it~~ *The department* shall maintain a register which shall identify by number and description such historical ~~buildings and~~ landmarks

L 5045. The department shall consider all recommendations made by the committee and shall register landmarks which in its judgment are of sufficient historical interest to warrant registration under this article. The department shall maintain a register which shall identify by number and description such landmarks.

N *5051.* ~~5022.~~ The ~~State Park Commission is authorized to~~ *division may* contract ~~with~~ or cooperate with public or private agencies for suitable markers and directional signs at the site of, or on the approaches to, registered *historical* landmarks, including signs on highways and roads. ~~All such markers shall conform to the recommendations of the Historical Landmarks Advisory committee as provided for in Section 5020 of this article.~~

(Sec. 5022, 1949:143.)

F 5022. The ~~State Park Commission is authorized to~~ *director may* contract with or cooperate with public or private agencies for suitable markers and directional signs at the site of, or on the approaches to, registered landmarks, including signs on highways and roads. All such markers shall conform to the recommendations of the Historical Landmarks Advisory Committee as provided for in Section 5020 of this article.

L 5046. The director may contract with or cooperate with public or private agencies for suitable markers and directional signs at the site of, or on the approaches to, registered landmarks, including signs on highways and roads.

N *5052.* ~~5023.~~ (a) ~~It shall be the duty of~~ The State Department of Public Works ~~to~~ *shall* keep in repair all objects or markers adjacent to a state highway which have been erected to mark registered historical *landmarks* ~~places~~ and ~~to~~ *shall*

keep such monuments or markers free from vegetation which may obscure them from view

(b) ~~It shall be the duty of~~ The county authorities, in charge of county highways, and all city authorities, with respect to streets and highways under their respective jurisdictions, ~~to~~ *shall* keep in repair or cause to be kept in repair all objects or markers adjacent to a public highway which have been erected to mark registered historical *landmarks* ~~places~~ and ~~to~~ *shall* keep such markers and monuments free from all vegetation which may obscure them from view.

(c) ~~It shall be the duty of the State Park Commission to~~ *The Division shall* keep in repair or cause to be kept in repair all objects, markers and monuments designating any registered historical places in respect to which no obligation in respect thereto is imposed on other governmental agencies by this section, and the ~~State Park Commission~~ *division* shall keep such markers and monuments free from all vegetation which may obscure them from view.

(Sec 5023; 1949·143.)

(Note: Secs 5025 11, 5025 12, and 5025.2, 1955:1062, omitted)

F 5023 (a) It shall be the duty of the State Department of Public Works to keep in repair all objects or markers adjacent to a state highway which have been erected to mark registered historical places and to keep such monuments or markers free from vegetation which may obscure them from view.

(b) It shall be the duty of the county authorities, in charge of county highways, and all city authorities, with respect to streets and highways under their respective jurisdictions, to keep in repair or cause to be kept in repair all objects or markers adjacent to a public highway which have been erected to mark registered historical places and to keep such markers and monuments free from all vegetation which may obscure them from view.

(c) It shall be the duty of the ~~State Park Commission~~ *department* to keep in repair or cause to be kept in repair all objects, markers and monuments designating any registered historical places in respect to which no obligation in respect thereto is imposed on other governmental agencies by this section, and the ~~State Park Commission~~ *department* shall keep such markers and monuments free from all vegetation which may obscure them from view.

L 5047. (a) The State Department of Public Works shall keep in repair all objects or markers adjacent to a state highway which have been erected to mark registered historical landmarks, and keep such monuments or markers free from vegetation which may obscure them from view.

(b) It shall be the duty of the county authorities, in charge of county highways, and all city authorities, with respect to streets and highways under their respective jurisdictions, shall keep in repair or cause to be kept in repair all objects or markers adjacent to a public highway which

have been erected to mark registered historical landmarks, and shall keep such markers or monuments free from all vegetation which may obscure them from view.

(c) The department shall keep in repair or cause to be kept in repair all registered historical landmarks in respect to which no obligation thereto is imposed upon other governmental agencies by this section, and the department shall keep such markers or monuments free from all vegetation which may obscure them from view.

F 5025.11 The ~~State Park Commission~~ *department* shall, with the advice of the Historical Landmarks Advisory Committee certify ~~to the Director of Natural Resources and the Division of Beaches and Parks,~~ the route followed by Colonel John Charles Fremont and party from the Nevada state line through Mono, Inyo, Alpine, Amador, and El Dorado Counties to Sutter's Fort in Sacramento County in the winter of 1843.

5025.12 The ~~Division of Beaches and Parks~~ *department* is authorized to place suitable markers along this certified route at intervals and at each intersection with a state highway or county road.

Article 4 Columbia Historic State Park

N *5061* ~~5040.~~ It is hereby declared to be the policy of the State of California to establish and preserve as a historical monument representative of the early gold mining days of this State that portion of the old town of Columbia in Tuolumne County whose acquisition was initiated under the provisions of Chapter 1387 of the Statutes of 1945 *The monument shall be known as the Columbia Historic State Park.*

(Sec 5040, 1955·71)

N *5062* ~~5043.~~ Columbia Historic State Park is a unit of the state park system and shall be administered *by the division* in accordance with the laws applying thereto subject to the provisions of this article.

(Sec. 5043, 1955:71)

N *5063* ~~5041. To assure the accomplishment of this policy it is directed that:~~

~~(a) The Division of Beaches and Parks under the direction of the Director of Natural Resources and in accordance with the policies established by the State Park Commission~~ *The division* shall make a survey based on historical research to determine the type and materials of construction, location, and uses of the structures which existed on the acquired area of the town of Columbia during those "early days"; and based on the data so obtained shall prepare a master plan of restorational development to which when approved by the commission all work of preservation and restoration shall substantially conform. Thereafter such master plan shall be modified only with the specific approval of the commission acting upon additional authentic information.

Pending completion and approval of such master plan work of preservation and repair of existing structures which have existed since "early days" and the restoration and erection of such structures the authenticity of whose plans and construction may be satisfactorily determined may be accomplished by the division ~~under supervision of the director~~ when approved by the commission, to the extent of availability of appropriated funds or of other funds donated ~~to the commission~~ for such purposes.

(Subd. (a), Sec. 5041; 1955:71.)

F 5041. To assure the accomplishment of this policy it is directed that:

(a) ~~The Division of Beaches and Parks under the direction of the~~ Director of Natural Resources ~~and~~ in accordance with the policies established by the State Park Commission shall make a survey based on historical research to determine the type and materials of construction, location, and uses of the structures which existed on the acquired area of the town of Columbia during those "early days"; and based on the data so obtained shall prepare a master plan of restorational development to which when approved by the commission all work of preservation and restoration shall substantially conform. Thereafter such master plan shall be modified only with the specific approval of the commission acting upon additional authentic information. Pending completion and approval of such master plan work of preservation and repair of existing structures which have existed since "early days" and the restoration and erection of such structures the authenticity of whose plans and construction may be satisfactorily determined may be accomplished by the division under supervision of the director when approved by the commission, to the extent of availability of appropriated funds or of other funds donated to the commission for such purposes.

(b) Leases of buildings within the area may be made with the approval of the director on such terms and conditions as determined by the commission for occupancy, including such lawful use which is found to be the same or similar use which held in the "early days" or which as determined by the commission is not inconsistent with the objective of this ~~act~~ *article*

(c) A building or buildings shall be used for the establishment of a museum to shelter and display exhibits of appliances used in mining or other activities of the vicinity, articles formerly possessed or used by "early days" inhabitants of the town, and items of historic interest or suitable for inclusion as approved by the commission, whether loaned, donated or otherwise acquired.

(d) Any structure whose preservation or restoration is assured by suitable contribution, when approved by the commission, may be named in honor of or as a memorial to the donor or as designated by the donor.

F 5050. All the powers, responsibilities, and jurisdictions of the State Department of Finance, concerning and appertaining to Sutter's Fort property is hereby transferred to and vested in the ~~Division of Beaches and Parks~~ *Department of Natural Resources,* and said ~~division~~ *department* shall provide for the preservation, protection and improvement of the Sutter's Fort property, in such way and manner as in its judgment may seem best and proper.

N 5064. ~~(b) Leases of~~ *The division may lease* buildings within the area ~~may be made with the approval of the director~~ on such terms and conditions as determined by the ~~commission~~ *division* for occupancy, including such lawful use which is found to be the same or similar use which held in the "early days" or which as determined by the ~~commission~~ *division* is not inconsistent with the objective of this ~~act~~ *article*.

(Subd. (b), Sec. 5041, 1955:71.)

N 5065. ~~(c)~~ *The division shall use* a building or buildings ~~shall be used~~ for the establishment of a museum to shelter and display exhibits of appliances used in mining or other activities of the vicinity, articles formerly possessed or used by "early day" inhabitants of the town, and items of historic interest or suitable for inclusion as approved by the *division* ~~commission~~, whether loaned, donated or otherwise acquired.

(Subd. (c), Sec. 5041, 1955:71.)

N 5066. ~~(d)~~ *The division may name* any structures whose preservation or restoration is assured by suitable contribution ~~, when approved by the commission, may be named~~ in honor of or as a memorial to the donor or as designated by the donor.

(Subd. (d), Sec. 5041, 1955:71.)

N *5067.* ~~5042.~~ The Columbia Historic Park Association, a nonprofit corporation, is designated as a committee advisory to the commission *and division* in the research incident to and adoption of the master plan for development and upon policies of preservation, restoration and management of Columbia Historic State Park.

(Sec. 5042, 1955:71.)

Article 5. California Riding and Hiking Trails

N *5071.* ~~5070.~~ This article shall be known and may be cited as the California Riding and Hiking Trails Law.

(Sec. 5070, 1945:1649.)

L Article 4. California Riding and Hiking Trails

5061. Language the same as Department of Natural Resources above.

N 5072. As used in this article, the following terms have the meanings attributed to them in this section, unless the context otherwise requires:

(a) "Trails" means riders' and hikers' trails for public use.

(b) "California Riding and Hiking Trails Project" otherwise referred to in this article as the "project" means any work or undertaking to:

(1) ~~(a)~~ Plan, chart, map or survey any trail area

(2) ~~(b)~~ Acquire land for the building of trails

(3) ~~(c)~~ Provide for the project, which may include buildings, equipment, recreational facilities, rest stations, shelters, and other real or personal property with necessary, convenient, or desirable appurtenances, including water service, camp site preparation, together with administrative, recreational, educational, and publicity services, including the issuance for public use of trail maps and bulletins, and all other purposes related thereto.

(c) "Committee" means the California Riding and Hiking Trails Advisory Committee.

(Sec. 5072, 1945:1469.)

L 5062. As used in this article, the following terms have the meanings attributed to them in this section, unless the context otherwise requires:

(a) "Trails" means riders' and hikers' trails for public use.

(b) "Trails Project" means any work or undertaking to:

(1) Plan, chart, map or survey any trail area

(2) Acquire land for the building of trails

(3) Provide for the project, which may include buildings, equipment, recreational facilities, rest stations, shelters, and other real or personal property with necessary, convenient, or desirable appurtenances, including water service, camp site preparation, together with administrative, recreational, educational, and publicity services, including the issuance for public use of trail maps and bulletins, and all other purposes related to the California Riding and Hiking Trails System.

(c) "Committee" means the California Riding and Hiking Trails Advisory Committee.

N *5073.* ~~5071.~~ It is hereby declared to be the public policy of this State and the purpose of this ~~act~~ *article* to promote the conservation, development, and use of the natural resources of this State for purposes of health, recreation, and protection against fire and other hazards; to increase the accessibility and encourage the use of such natural resources by the residents of this State and by nonresidents; to provide opportunity for the development of public and private facilities for the service of persons visiting and utilizing the natural resources of the State; to encourage increase in riding and hiking as influences for the improvement of the health of the people; and to provide for the establishment, development, maintenance and use of a state-wide system of riders' and hikers' trails, both primary and secondary.

The conclusions and recommendations in the report of the Riding and Hiking Trails Projects Committee of the Re-

construction and Re-employment Commission submitted to said commission are adopted in principle.

(Sec. 5071, 1955:1536.)

F 5071. Language the same as Department of Natural Resources above.

L 5063. Language the same as Department of Natural Resources above.

N 5074. The project shall be administered in accordance with the laws applying to the state park system subject to the provisions of the article.

(New. Replaces 1st sent., Sec. 5073, 1951:976. Riding and hiking trails made part of state park system—See Sec. 5015 of draft.)

L 5064. Language the same as Department of Natural Resources above.

N 5075. The ~~State Park~~ commission may appoint an advisory committee to be known as the California Riding and Hiking Trails Advisory Committee, ~~to consist~~ *consisting* of seven members, two from the northern, two from the southern, two from the central portion of the State, and one at large, selected from lists submitted upon invitation by the ~~Park~~ commission by appropriate civilian organizations interested in the establishment and use of a State Trails System.

(2nd sent., Sec 5073, 1951:976.)

F 5073 The provisions of this article shall be administered by the ~~Division of Beaches and Parks under the supervision of the~~ Director of Natural Resources in accordance with *general* policies established by the State Park Commission. The State Park Commission may appoint an advisory committee to be known as the California Riding and Hiking Trails Advisory Committee, to consist of seven members, two from the northern, two from the southern two from the central portion of the State, and one at large, selected from lists submitted upon invitation to the ~~Park Commission~~ *commission* by appropriate civilian organizations interested in the establishment and use of a State Trails System.

L 5065 Language the same as Department of Natural Resources above

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N *5076.* ~~5071. The terms of members of the committee are temporary and at the pleasure of the commission. No.~~ *The members of the committee shall serve at the pleasure of the commission but no* member shall serve for longer than permitted by Section 6, Article XXIV, of the State Constitution. Members shall serve on an intermittent basis and shall be deemed to be in the service of the State only on days during which they attend committee meetings and travel to and from them. Each member of the committee shall receive his necessary expenses, including traveling expenses, incurred in discharge of his duties. Meetings of the committee shall be limited to 12 in any one fiscal year. The commission

shall abolish the committee when in its opinion the services thereof are no longer required.

(Sec. 5074, 1945:1469.)

L 5066. Language the same as Department of Natural Resources above.

N 5077. ~~5076.~~ The committee shall investigate all matters pertaining to the proposed project and shall annually prepare a report on these matters and forward it to the ~~State Park Commission~~ *division* in time for the ~~commission~~ *division* to incorporate it in ~~the~~ *its* annual report ~~of the commission~~ to *the director for transmission to* the Governor concerning the state park system.

(Sec. 5076, 1945:1469.)

L 5067 The committee shall investigate all matters pertaining to the proposed project and shall annually prepare a report on these matters and forward it to the department in time for the director to incorporate it in his annual report to the Governor concerning the state park system.

N 5078. ~~5077.~~ The right of eminent domain may not be exercised to acquire property, any interest in property, or use of any property for the trails contemplated pursuant to this article.

(Sec. 5077, 1945:1469.)

L 5068. Language the same as Department of Natural Resources above.

N 5079. ~~5072.5.~~ The ~~State Park~~ commission may, *with the consent of the Department of Finance,* abandon any easement, or portion thereof, which has been acquired for trail or flood purposes, and which is no longer necessary for such purposes.

(Sec. 5072.5, 1953:1258.)

F 5072 5 The ~~State Park Commission~~ *director* may abandon any easement, or portion thereof, which has been acquired for trail or flood purposes, and which is no longer necessary for such purposes.

L 5069. The department may, subject to approval by the State Park Commission and with the consent of the Department of Finance, abandon any easement, or portion thereof which has been acquired for trail or flood purposes and which is no longer necessary for such purposes.

Article 6. Roadside Rests

N *5082.* ~~5080.~~ Many persons traveling along the state highways make brief stops for the purpose of eating their meals and resting before resuming their travel. At the present time there are insufficient places where such stops can be made in safety and where free facilities are provided for eating lunches and disposing of the litter therefrom. Under the present law, such facilities could be provided, subject to the availability of funds, either by the Department of Public Works or the Division of Beaches and Parks of the De-

partment of Natural Resources. In enacting this article it is not the intent of the Legislature to diminish any existing powers of either agency, but rather to provide specifically for the development of a system of roadside rest areas with appropriations made for the purpose of carrying out this article. In carrying out this article, the Division of Beaches and Parks and any other state or public agency may exercise all powers given to them under any law other than this article, except as expressly prohibited by this article, and shall co-operate in the exchange of pertinent information to the end that the program contemplated by this article can be co-ordinated with the locating, planning, and constructing of other public works.

It is the intent of the Legislature that the locating, constructing, equipping and maintaining of roadside rests be initiated on a state-wide experimental basis with minimum equipment and facilities, other equipment and facilities to be added to existing rests and included in new construction when and to the extent it is justified by experience.

(Sec. 5080, 1957:2113.)

N *5083.* ~~5081. As used in this article~~ "Roadside rest," *as used in this article,* means an area adjacent, or within reasonable proximity, to a state highway, suitable during daytime hours for the eating of lunches and for other brief stops taken by the traveling public along such highways.

(Sec. 5081, 1957:2113.)

N 5084. Roadside rests shall be administered in accordance with the laws applying to the state park system subject to the provisions of this article.

(New. Replaces Sec. 5084, 1957:2113. Roadside rests made part of the state park system—see Sec. 5015 of draft.)

N *5085.* ~~5082.~~ Roadside rests shall be located, constructed, *and* equipped, ~~and maintained~~ as the commission finds the public interest requires in the light of the conditions of the site and the extent of the traffic. Roadside rests shall be located where, in the opinion of the Department of Public Works, Division of Highways, they can be located without undue hazards to traffic. All roadside rests on state highways shall be subject to the approval of the Department of Public Works, Division of Highways, as to location, fencing, and manner and extent of access to the rest areas from the highway and from adjacent private property

The Division of Highways shall cooperate with the Division of Beaches and Parks to provide an adequate number of rest areas in connection with the National System of Interstate and Defense Highways, as provided in the Highway Revenue Act of 1956 in combination with the Federal Aid Highway Act of 1956.

(Sec. 5082, 1957:2113.)

N *5086.* ~~5083.~~ The roadside rest program shall be designed and maintained to serve the daytime needs of the traveling public upon the State Highway System. Local and wider recreational needs should be met by the establishment of community, district, county, regional, or state parks, and are not intended to be provided for with funds appropriated for the purpose of carying out this article.

(Sec. 5083, 1957:2113.)

N *5087.* ~~5086.~~ The ~~Division of Beaches and Parks~~ *division* may use any state park or portion thereof for the purpose of providing roadside rests and may use property of any other state or public agency or private person or of the Federal Government leased, or the temporary use of which has been granted, for the purpose of providing roadside rests.

(Sec. 5086, 1957·2113.)

N *5088.* ~~5087.~~ The ~~Division of Beaches and Parks~~ *division* may exercise all or any portion of the powers it has with respect to roadside rests pursuant to Chapter 5 (commencing at Section 6500) of Division 7 of Title 1 of the Government Code. For the purposes of this article, "public agency" as used in said Chapter 5 includes any person, firm, association, organization, partnership, business trust, corporation, or company.

(Sec. 5087, 1957:2113.)

N *5089.* ~~5088.~~ Except as to roadside rests located in state park areas, the division shall not proceed with the establishment of any roadside rest without first seeking the advice and recommendation of the planning commission of the county in which the roadside rest is to be established.

(Sec. 5088, 1957·2113.)

N *5090.* ~~5089.~~ Prior to the disposal by sale of excess fee-owned parcels acquired for state highway purposes, not needed for such purposes, the Department of Public Works shall notify the Division of Beaches and Parks, and the department and the division, pursuant to law, shall endeavor to arrange for the conveyance to or use by the division for roadside rest purposes of any property deemed suitable therefor by the ~~State Park Commission.~~ *commission.* ~~provided, that this~~ *This* requirement of notice shall not apply to the disposal of such excess parcels by exchange for other property, pursuant to the terms of right of way contracts making provision for such exchange, or to any other method of disposal not constituting a sale, nor shall such requirement apply to the disposal by sale or exchange of excess parcels located in urban areas or in other areas which the department and the division, by mutual agreement, consider unsuitable for development of roadside rests.

(Sec. 5089, 1957·2113.)

N 5091. ~~5090.~~ The division of Beaches and Parks shall be responsible for the maintenance of all roadside rests constructed and equipped by that agency. It may contract with the Department of Public Works, Division of Highways, or any public or private agency for such maintenance work if the Director of Finance finds that maintenance by contract would be more economical. Subject to the approval of the Department of Public Works, Division of Highways, as to location of signs, the division may also erect and maintain signs indicating where roadside rests may be found, or may contract with the Department of Public Works, Division of Highways, for the erection and maintenance of the same. Roadside rest signs shall be of such shape and color as to be clearly distinguishable from highway directional signs.

(Sec. 5090, 1957 · 2113.)

N 5092. ~~5091.~~ State laws and rules and regulations of the ~~State Park Commission~~ *commission* shall be administered and enforced within roadside rests by all employees of the State authorized by the ~~State Park Commission~~ *division* to do so and by all peace officers.

(Sec. 5091, 1957 · 2113.)

N 5093. ~~5092.~~ It shall be unlawful for any person to throw or deposit any substance in a roadside rest other than in a receptacle provided for that purpose. It shall be unlawful for any person to deposit in the receptacles provided for refuse in a roadside rest any refuse or waste from homes, farms, or commercial establishments, or other material which does not arise out of the use of the roadside rest by a member of the traveling public. The violation of this section shall be a misdemeanor punishable as provided in Section 763 of the Vehicle Code, and all of the provisions of Chapter 2 (commencing at Section 735) of Division 12 of the Vehicle Code shall apply to an offense committed under this section the same as if such offense were made an offense by the Vehicle Code.

(Sec. 5092, 1957 · 2113.)

Article 7. Special Provisions

N 5096 ~~5032.~~ Mission Bay State Park consists of that area of land owned by the State in San Diego County comprising approximately 65 acres located within the area formerly comprising Mission Bay State Park and which was not granted by the Legislature to the City of San Diego and which by reason of its location forms the entrance to and controls the larger area which comprises Mission Bay Park.

~~5033.~~ The commission may accept as a part of the Mission Bay State Park, all privately or publicly owned land adjoining it or in its immediate vicinity, if the lands are tendered free of charge and unencumbered and, in the judgment of the commission, are of sufficient historic, scenic, scientific,

or recreational value to warrant incorporation into the state park.

~~5034. The provisions of Sections 5032 and 5033 of this article~~ *This section* shall not affect easements or rights of way granted or acquired before August 14, 1929, upon or across such waters or lands for highway purposes; nor shall those provisions in any way affect any lease or franchise of any state-owned waters or tidelands, existing on August 14, 1929. Upon the expiration of every such lease or franchise, the lands or waters subject thereto immediately shall pass under the control of the ~~State Park Commission~~ *division* to be administered as part of the state park system.

(Secs. 5032, 5033, and 5034, 1939:93.)

N *5097.* ~~5037.~~ The ~~State Park Commission~~ *division* shall provide for the preservation, development, and interpretation of the John Bidwell Mansion as a state historical monument when the State Department of Education determines that the John Bidwell Mansion is no longer necessary for classroom purposes. The ~~State Park Commission, acting by and through the Division of Beaches and Parks, Department of Natural Resources,~~ *division* shall upon acquisition of the property provide for such restoration and improvements as are necessary to carry out the purposes of this section, upon appropriation of the necessary funds.

The properties acquired, restored, improved, maintained, and operated pursuant to this section shall constitute a portion of the state park system.

(Sec. 5037, 1957:1747.)

N *5098.* ~~5016.~~ In order to eliminate or acquire privately owned lands situated within the present exterior boundaries of the *present* Anza-*Borrego* Desert State Park Project, the ~~State Park Commission~~ *division, upon the authorization of the commission,* ~~is authorized to~~ *may, from time to time,* exchange for such lands other lands of approximately equal value which have been or may hereafter be patented to the State for park purposes by the Federal Government. In making the exchanges the ~~commission~~ *division* may comply with all *pertinent federal laws and* rules ~~prescribed by the Secretary of the Interior relating thereto~~.

(Sec. 5016, 1945:195.)

F 5016. No change from existing code.

L

Article 5. Miscellaneous Provisions

5071. In order to eliminate or acquire privately owned lands situated within the present exterior boundaries of the present Anza-Borrego Desert State Park Project, the director, upon the authorization of the commission, may, from time to time, exchange for such lands other lands of approximately equal value which have been or may hereafter be patented to the State for park purposes by the Federal Government.

In making the exchanges the director may comply with all pertinent federal laws and rules.

N 5099. ~~5013.5.~~ The State Park Commission may, by resolution, abandon all of the right, title, and interest of the State of California in and to the right of way for a term of 100 years from September 11, 1905, acquired by the State by deed dated June 1, 1943, recorded in Book 61 of Deeds, page 147, Records of Del Norte County, California, and described in a conveyance by Frank Hussey to The Del Norte Company, a corporation, by deed dated September 11, 1905, recorded in Book B of Agreements, page 156, Records of Del Norte County, California, to be "* * * a right of way 30 feet in width on the lands of said Hussey bordering the edge of the timber sold by said Hussey to said Del Norte Company * * * solely for the purpose of removing the logs and other timber from the tract of land belonging to the said Del Norte Company and such other lands adjoining as it may hereafter acquire and for the purpose of doing such other things as may be necessary or convenient in the removing of said timber of various sorts and shapes."

(1957:1429 Sec 5013.5, 1957:1429 *Query:* Should this section be deleted? If conveyance has been completed the section might be obsolete.)

N 6816. All moneys and remittances received by the State pursuant to this chapter, except rents, bonuses, royalties and profits accruing from the use of state school land, shall, with the exception of the amount which is appropriated by Section 898 of the Military and Veterans Code to the Veterans' Dependents' Education Fund, be deposited in the State Treasury to the credit of the State Lands Act Fund, which fund is continued in existence In addition thereto, such other moneys shall be deposited in such fund as may be provided by law. The moneys in the fund are hereby appropriated as follows:

(a) For the payment of refunds, as authorized by the commission and approved by the State Board of Control.

(b) The remainder of the moneys shall be used by the commission, with the approval of the Director of Finance and the consent of the Governor, to carry out the provisions of this chapter, including the acquisition of real property or interests therein, the purchase of materials and supplies, and the conducting of operations by the State as provided herein, the payment by the State of such sums as may be provided pursuant to agreements or contracts authorized herein, and the payments of the necessary expenses of the commission.

(c) Upon order of the Controller, the remaining balance shall be transferred as follows:

1 ~~Twenty-three and one-third~~ *Seventy* percent to the State Beach *and Park* Fund ~~and 46 2/3 percent to the State Park Fund~~ ; provided, that the total aggregate

amount transferred to ~~both of said funds~~ *said fund* in any one fiscal year beginning after June 30, 1956, shall not exceed twelve million dollars ($12,000,000).

2. The remainder to the General Fund; provided, that any amounts transferred to the General Fund in excess of three million dollars ($3,000,000) during any fiscal year beginning after June 30, 1956, shall be set aside and transferred to the Investment Fund, and shall be available for expenditure only when appropriated by the Legislature.

(Sec. 6816, 1957:2367.)

The provisions of the existing Code which have been repealed in the preceding draft or have been segmented and assigned to other sections to such an extent as to lose their identity are as follows:

N 504.5. Wherever "Division of Parks" is used in this code or any provision of law, the phrase shall mean the Division of Beaches and Parks.

F Unchanged.

L See above.

N 506. The Division of Parks shall be administered through a chief who shall have at least five years of executive experience in park, recreational, or related types of administration, and who shall be appointed by the director upon nomination by the State Park Commission. General policies for the administration, protection, and development of the State Park System shall be determined by the State Park Commission which shall consist of seven members appointed by the Governor, with the advice and consent of the Senate.

The members of the State Park Commission shall be selected from areas distributed throughout the State and because of their interest in park and conservation matters and shall serve for terms of four years and until their successors are appointed and qualified. The Governor shall make the first appointments hereunder for terms expiring, respectively, on the fifteenth day of January, as follows: two in the year 1947, two in the year 1948, and one in the year 1949.

The two new members added to the commission by the amendment made to this section by the Legislature at the 1957 Regular Session shall be appointed by the Governor for terms expiring, one on the fifteenth day of January, 1958, and one on the fifteenth day of January, 1961.

The Governor shall specify, previous to July 1, 1946, a termination date of appointment, coincident with January 15th, for the members holding office at his pleasure.

In case of any vacancy the appointment shall be for the remainder of the unexpired term. All appointments of members made when the Legislature is not in session shall be

	subject to confirmation by the Senate at the next regular or special session of the Legislature
L	See above
N 506.6	The State Park Commission is hereby authorized and directed to appoint, in accordance with civil service and other provisions of law, such officers and other expert and clerical assistance as it may deem necessary.
L	See above.
N 506.7	The State Park Commission shall have power to adopt, alter, change, or amend any state master plan of shore line development.
L	See above.
N 5001.	The Department of Natural Resources, through the State Park Commission, has control of the State Park System.
N 5002.	All parks, public camp grounds, monument sites, landmark sites, and sites of historical interest established or acquired by the State, or which are under its control, constitute the State park system, except the sites and grounds known as Sutter's Fort property, the State Fair Grounds in the city of Sacramento, and Balboa Park in the city of San Diego.
N 5003	The State Park Commission shall administer, protect, and develop the State Park System for the use and enjoyment of the public. It may establish rules and regulations not inconsistent with law for the government and administration of the State Park System, . . . and it may expend all moneys of the State Park Commission from whatever source derived, for the care, protection, supervision, extension, and improvement or development of the State Park System. It may enter into contracts with persons, firms or corporations to maintain and operate concessions within the state park areas for the safety and convenience of the general public in the use and enjoyment of the State Park System. The commission shall obtain the approval of the Department of Finance before entering into any such contract if the contract would authorize occupancy for a period of more than one year of property owned by the State. It may, with the approval of the Department of Finance, enter into contracts with a regional park district for the care and maintenance of, to maintain and operate concessions within, and to act as agent of the commission in the management of, any beaches, parks, public campgrounds, monument site, landmark site, site of historical interest, or other state park areas under its control.
N 5004.	The State Park Commission shall gather, digest, and summarize, in its annual reports to the Governor, information concerning the State park system and the relation to it of other available means for conserving, developing, and utilizing the scenic and recreational resources of the State.

N 5006.	The State Park Commission, with the consent of the Department of Finance, may acquire by purchase or by condemnation proceedings brought in the name of the people of the State of California, title to or any interest in real and personal property which the commission deems necessary or proper for the extension, improvement, or development of the State Park System
N 5006 5	The State Park Commission, with the consent of the Department of Finance, may lease any interest in real property which the commission deems necesary or proper for the extension, improvement, or development of the State Park System. No payment from state money in execess of one thousand dollars ($1,000) a year shall be made pursuant to any such lease unless and until money equal to or exceeding one-half of the excess over one thousand dollars ($1000) shall have been made available for expenditure by the State for the purpose by some person, corporation, public district, municipality or political subdivision other than the State, or by the United States or an agency thereof.
N 5007	Contracts may be entered into between the State Park Commission and cities, counties and other political subdivisions of the State for the care, maintenance, and control, for the purposes of the State Park System, by either party to the contract, of lands under the jurisdiction of the other party to the contract. The expenses of the care, maintenance, and control may be paid from the general fund of the city, county, or other political subdivision of the State or from the funds of the State Park Commission, as the case may be
N 5010	The State Park Commission, whenever in its judgment it is practicable to do so, shall collect fees, rentals, and other return for the use of any state park area, the amounts to be determined by the Park Commission and to be paid into the State Treasury to the credit of the State Beach and Park Fund, which is hereby created. The State Beach and Park Fund and all moneys received by the commission from any source, including eminent domain, except those received under Section 5009, are hereby continually appropriated for improvement, equipment and maintenance of state parks, state monuments, roads, roadside rests, trails and pathways, and when specifically appropriated by the Legislature for construction and acquisition of the above-named projects. All moneys in the State Beach Fund, the State Park Fund and the State Park Maintenance Fund are hereby transferred to the State Beach and Park Fund and all moneys now appropriated from the above-named funds are considered appropriated from the State Beach and Park Fund, and such appropriations shall remain available for the same period as they were originally made. The State Beach Fund,

the State Park Fund and the State Park Maintenance Fund are abolished. All references in any law heretofore or hereafter enacted to any of such funds shall be deemed to refer to the State Beach and Park Fund.

N 5012. The Director of Natural Resources, upon application by the proper authorities and on such terms and conditions as the State Park Commission may prescribe, may grant easements for public highways over and across state park lands under the jurisdiction of the department and the State Park Commission.

The director may also, upon application by the board of supervisors of any county which is developing within its own boundaries a small craft harbor and recreational area in co-operation with the Government of the United States, and on such terms and conditions as the State Park Commission may prescribe, grant easements for channels or facilities necessary for the development of such small craft harbor and recreational area, over and across state park lands under the jurisdiction of the department and the State Park Commission.

N 5013. The department may acquire, purchase, and obtain objects of historical interest, and it may purchase sites for and establish and maintain museums for such objects.

L Sec. 5015 in draft.

N 5015. The State Park Commission is the agency of the State designated to supervise and charged with, the acquisition, development, maintenance and protection of ocean beaches for public recreational purposes and control and correction of beach and cliff erosion, and when the State shall provide for the expenditure of any money for the development and protection of public beaches owned by counties or municipalities, the State Park Commission is the agency of the State designated to supervise such expenditure.

In the performance of its powers and duties under this section the State Park Commission may co-operate with the United States, the Beach Erosion Board of the United States or with any other Federal agency or with any county or municipality, or with the State Lands Commission, or with any other State office, or with any or all such agencies and upon such terms and conditions and in such manner as will be for the best interests of the State. Insofar as matching funds required by this section are to be supplied by the United States or any agency thereof, such funds need not be deposited in the State treasury or otherwise made available for expenditure by the State but may be retained by the Federal agency for expenditure by it in carrying out the purpose of the appropriation as may be provided for by agreement therewith.

No acquisition, development or protection of any beaches for public use or control and correction of beach or cliff

erosion shall be accomplished in any county which has not adopted a master plan of beaches for that county, which plan shall provide for the acquisition, development, and control of ocean beaches in such county and which plan has been submitted to and approved by the State Park Commission nor shall any portion of an appropriation made by this State be expended for acquisition, development, improvement or protection of any ocean beaches or bays and inlets thereof for recreation purposes only, owned by a county or municipality or control and correction of beach or cliff erosion on beaches or cliffs owned by any person, corporation or other ownership or by a county or municipality unless moneys equal to or in excess of the amount to be expended from the appropriation for that purpose shall have been made available (by any person, corporation, political subdivision, public district or public subdivision other than the State, or by the Federal Government or its agencies) for expenditure by the State for that purpose, to the end that any sums expended for such acquisition, development, improvement or protection and control shall be matched by like or greater amounts from sources other than the State. Within the discretion of the State Park Commission, in lieu of any matching contribution in the form of money for the acquisition of any ocean beach within any city or any county, or city and county such city or county or city and county may contribute any ocean beach within its limits heretofore or hereafter acquired by it, subject to the approval of the State Park Commission, upon such terms as are mutually agreeable.

It is not intended that the provisions of this act shall prevent or restrict any county, city, county and city or political subdivision from appropriating and spending its own funds to acquire, develop or protect any beach or cliff erosion within its jurisdiction even though said county has not yet adopted a master plan of beaches for that county, provided, that this shall not relieve any such county, city, county and city or political subdivision from compliance with Section 6301.

(Sec. 5015, 1945:922 deleted at request of Department of Natural Resources.)

F See above.

L See above.

N 5019.5. Before any park or recreational area developmental plan is made, the Director of Natural Resources shall cause to be made a land carrying capacity survey of the proposed park or recreational area, including in such survey such factors as soil, moisture, and natural cover.

N 5020. (a) The Governor is hereby authorized to appoint an Historical Landmarks Advisory Committee of seven members to include such persons as he may deem are best qualified to carry out the purposes of this article and who shall serve

	without compensation and shall hold office at the pleasure of the Governor.
N 5025 2	It shall be the duty of the Division of Beaches and Parks to keep in repair, or cause to be kept in repair, all markers of such historical routes.
N 5025.11.	The State Park Commission shall, with the advice of the Historical Landmarks Advisory Committee certify to the Director of Natural Resources and the Division of Beaches and Parks, the route followed by Colonel John Charles Fremont and party from the Nevada state line through Mono, Inyo, Alpine, Amador, and El Dorado Counties to Sutter's Fort in Sacramento County in the winter of 1843.
N 5025.12.	The Division of Beaches and Parks is authorized to place suitable markers along this certified route at intervals and at each intersection with a state highway or county road.
N 5031.	The State Park System includes: 1. The California Redwood Park 2. Chief Solano Monument 3. Donner Monument 4. First Theater (Monterey) 5. Fort Ross Historical Monument 6. Junipero Serra Monument 7. Marshall's Monument 8. Mission Bay State Park 9. Monterey Custom House 10. Mount Diablo State Park 11. Pio Pico Mansion 12. San Pasqual Battlefield 13 Sonoma Mission Historical Monument 14. Tamalpais State Park 15. Columbia Historic State Park 16. Pueblo de Los Angeles State Historical Monument
F 5032. L	Unchanged For text see 5096 in draft.
L 5033.	For text see 5096 in draft.
L 5034.	For text see 5096 in draft.
N 5035. L	The maintenance of the Chief Solano Monument shall be under the control and management of the State Park Commission. See above.
N 5036.	The board of supervisors of the County of Solano may authorize the removal of the Chief Solano monument to the county court house grounds in Fairfield, under the following conditions: (a) That a suitable and appropriate site for the erection of the monument be provided by the county.

	(b) That a proper base be furnished upon which to place the monument. The method of financing the removal of the statue from its present location to the court house grounds shall be in the discretion of the board of supervisors.
L	See above.
F 5037.	Unchanged.
L	See above.
L 5040.	For text see 5061 in draft.
L 5041.	For text see 5061 in draft
L 5043.	For text see 5061 in draft.
N 5050	All the powers, responsibilities, and jurisdiction of the State Department of Finance, concerning and appertaining to Sutter's Fort property is hereby transferred to and vested in the Division of Beaches and Parks, Department of Natural Resources, and said division shall provide for the preservation, protection and improvement of the Sutter's Fort property, in such way and manner as in its judgment may seem best and proper.
N 5060	The Department of Natural Resources, acting through the State Park Commission, may enter into contracts with individuals or with other governmental agencies or departments for the lease, for park and recreational purposes and for the development and expansion of park and recreational areas, of lands which in the judgment of the commission are desirable for those purposes, on such terms and subject to such conditions as the commission may determine.
F	See above.
L	See above.
N 5061.	The term of such a lease shall not exceed 20 years nor be less than two years.
F	See above.
L	See above.
N 5062.	Any such lease contract shall contain an option permitting the State to purchase the lands under lease The lease contract shall include provisions: (a) That all payments made by the State as rental thereunder shall be applied on the purchase price of the lands. (b) That at the end of each two-year period, if the State so elects, the lessor will convey to the State, without additional consideration, a designated area of the lands under lease, as described therein, which area shall be such proportion of the total area as the amount of rental paid by the State for such period bears to the total amount of rental to be paid under the lease. (c) That the State may terminate the rental contract at its option at the end of any two-year period.

	(d) That the total rental to be paid under any such lease contract shall not be in excess of the appraised value of the lands.
F	See above.
L	See above.
N 5063.	Before entering into any such lease contract, the lands proposed to be leased shall be appraised by three appraisers, appointed by the Governor, who shall determine the fair market value of the lands. The total amount of rental to be paid for the entire term under any lease contract shall not be in excess of the fair market value of the lands, as determined by the appraisers. The appraisers shall file with the Director of Finance three verified copies of their appraisal of any lands proposed to be leased. The director shall thereupon deliver one copy of the appraisal to the State Park Commission and one copy to the Director of Natural Resources.
F	See above.
L	See above.
N 5064.	The commission for a consideration may assign such options to other governmental agencies or departments. The commission may accept gifts of money or lands from individuals and from other governmental agencies for the purpose of acquiring, by purchase or exchange, the lands under option.
F	See above.
L	See above.
N 5065.	Lands leased shall be administered as a part of the California State Park System, subject to existing laws affecting the operation and administration of State parks.
F	See above.
L	See above.
N 5073.	The provisions of this article shall be administered by the Division of Beaches and Parks under the supervision of the Director of Natural Resources in accordance with policies established by the State Park Commission.
N 5075.	The State Park Commission may accept on behalf of the State grants and ask financial assistance for or in aid of the project.
F	See above.
L	See above.
L 5080.	For text see Article 6 beginning at Section 5082 of draft.
L 5081.	For text see Article 6 beginning at Section 5082 of draft.
L 5082.	For text see Article 6 beginning at Section 5082 of draft.
L 5083.	For text see Article 6 beginning at Section 5082 of draft.

N 5084.	The provisions of this article shall be administered by the Division of Beaches and Parks under the supervision of the Director of Natural Resources in accordance with policies established by the State Park Commission
L	See above.
N 5085.	The State Park Commission may accept grants on behalf of the State and may accept financial assistance for, or in aid of, roadside rests.
L	See above.

EXHIBIT 1

State of California
Department of Natural Resources
Division of Beaches and Parks

CURRENT CONCESSION AGREEMENTS

Concessionaire	Type	Park	Expiration date	Terms
Amolsch, Rhoda W.	Hotel	Old Custom House	8/31/59	$90 per month
Bailey, Howard F	Grazing	Anza-Borrego	6/30/59	$409 83 per year
Benson Tours	Sightseeing	Anza-Borrego	6/30/59	No revenue
Bergman, Ray L	Grazing	Anza-Borrego	12/31/59	$26 56 per year
Bevan & Hodges	Boating	Folsom Lake	12/31/59	5 percent of gross receipts
Bonora, L & Co	Crops	Seacliff Beach	3/31/59	$100 per year
Botelho, G & R	Mobile unit	Seacliff Beach	12/31/62	$3,000 annual guarantee or $5½ percent of first $50,000 plus 18 percent of gross receipts in excess of $50,000
College of Pacific	Theatre	Columbia	None	No revenue
Coloma Fire Dept	Fire equipment storage	Marshall Gold Discovery	5/31/60	No revenue
Columbia Engine Co No 1	Fire station	Columbia	9/30/62	$1 per annum
Cozzolino, Mrs J S	Tea room	Sonoma SHM	1/31/60	$50 per month
Daley Enterprises	Grazing	Anza-Borrego	6/30/59	$231 09 per year
Denny-Watrous Management	Theatre	California First Theatre SHM	6/30 61	5 percent of gross receipts
Dinnell, Wayne	Grocery store, soda fountain and gift shop	Richardson Grove	12/31/61	$5,100 annual guarantee or 6 percent of grocery store plus 12 percent of soda fountain plus 16 percent of gift shop
Dondero, Frank J	Barber shop	Columbia	Month to month	$5 per month
Eastlack, Mary	Grocery store	Columbia	Month to month	$40 per month
Eastlack, Mary	Warehouse	Columbia	Month to month	$12 per month
Elliott, Jinks I	Grazing	Anza-Borrego	6/30/59	$112 74 per year
Fish, Eugene	Dwelling	Sonoma SHM	1/31/59	$60 per month
Franco, Carlo	Tavern and dwelling	Columbia	6/30/59	$25 per month
Freitas, Anna	Grazing	Fremont Ford	Month to month	No revenue
Funk, Harold T	Dwelling and grazing	Jedediah Smith	11/26/61	No revenue
Fuquay, Mrs. G.	Grazing	Anza-Borrego	6/30/59	$89 07 per year
Garner, Donald	Dwelling	Columbia	6/20/59	$45 per month
Gingrich, Arthur	Food and boating	Turlock Lake	10/31/64	$350 per month or 11 percent of gross receipts
Ginza Shop	Gift shop	Old Custom House	7/31/61	$200 per month or 6 percent of gross receipts in excess of $40,000
Graham, Dowling	Surf and tackle store	Old Custom House	4/30/60	$60 per month
Graham, Dowling	Apartment	Old Custom House	8/31/59	$60 per month
Hedgpeth, C E	Food and gift shop	Henry Cowell	12/31/60	20 percent of gross receipts of gift shop plus $600 annual guarantee or 6 percent of gross receipts of food sales
Jasper, Ralph	Grazing	Anza-Borrego	6/30/59	$453 05 per year
Jones, Johnny L	Dwelling	Marshall Gold Discovery	9/30/59	$20 per month
Jones, Paul	Mobile unit	Hearst San Simeon	10/15/59	5 percent of gross receipts
Kirkman, Dorothy	Dwelling and curio shop	Columbia	Month to month	$20 per month
Kruger, Roland H	Attorney's office	Sonoma SHM	1/31/60	$60 per month
Leever, Basil and Ruth Parsons	Dwelling and gift shop	Columbia	2/28/59	$40 per month
Marsh, Ponce and Clevenger	Food	Columbia	8/31/62	$25 per month
Martello, Roy and Faye	Mobile unit	San Mateo Beaches (Francis Dunes area)	12/31/59	5 percent of gross receipts
Martello, Roy and Faye	Mobile unit	San Mateo Beaches (San Gregorio area)	12/31/59	5 percent of gross receipts
Masonic Grand Lodge	Lodge Hall	Columbia	5/31/99	$1 per year
Matuchansky, M	Resort	Emerald Bay	8/ 5/59	$200 per year
McCain, R. D.	Grazing	Anza-Borrego	6/30/59	$57.52 per year
McCain, R. M.	Grazing	Anza-Borrego	6/30/59	$157.59 per year

EXHIBIT 1

State of California
Department of Natural Resources
Division of Beaches and Parks

CURRENT CONCESSION AGREEMENTS—Continued

Concessionaire	Type	Park	Expiration date	Terms
McConnell, J E	Storage room	Columbia	Month to month	$20 per month
McCulley, Roy and Glander, Charles	Cafe and tackle shop	San Buenaventura Beach	12/31/60	$1,500 annual guarantee or 5 percent of gross receipts
Mellor, T. F	Candy shop	Columbia	Month to month	$15 per month
Messer, Don	Boating	Morro Bay	3/31/60	$2,000 annual guarantee or 10 percent of gross receipts
Miller, Roy	Shoe shop	Columbia	6/30/59	$15 per month
Morganrath, Jack	Dwelling	John Little	None	$10 per month
Murphy, Walter	Apartment	Sonoma SHM	1/31/63	$25 per month
Native Sons of Golden West	Lodge Hall	Columbia	5/31/61	$1 per year
Nelson, Dorothy O	Dwelling	Columbia	4/30/59	$10 per month
Nelson, C. R	Candy shop	Columbia	10/ 1/61	$40 month
Nicolson, Joe E	Grocery store	McArthur-Burney Falls	9/30/60	$200 or 8½ percent of monthly gross receipts
Oliver, Myron A	Storeroom	Old Custom House	10/31/59	$50 per month
Osborne, L. W. and Lutie V.	Grocery and novelty store	Columbia	7/31/59	$50 per month
Presbytery of San Joaquin	Manse rental	Columbia	5/31/62	$1 per year
Raymond, W H	Lodge	Pfeiffer Big Sur	12/31/61	1 percent of gas sales, 5 percent of store sales, 10 percent hire of horses, 10 percent dining room sales and 15 percent rental of cabins
Rosenberger, R R	Post office and dwelling	Marshall Gold Discovery	6/30/59	$16 per month for post office and $20 per month for dwelling
Sanders, Jackson	Boating	Millerton Lake	12/31/63	$2,000 annual guarantee or 10 percent of docking fees and 5 percent of bait and tackle fees and 11 percent of equipment rental and one cent per gallon on gasoline
Sawday, Mrs. Emily	Grazing	Anza-Borrego	6/30/59	$198 92 per year
Shasta, County of	Justice court	Shasta SHM	10/16/59	$10 per month
Sanders, Claude A	Dwelling	Marshall Gold Discovery	11/30/59	$30 per month
Sgarlato, A D	Lodge and curio shop	Big Basin Redwoods	12/31/60	$7,500 annual guarantee or one cent per gallon on gasoline products and 5 percent of grocery sales and 10 percent of coffee shop sales and 7 percent of dining room sales and 10 percent of rental of cottages and 51 percent of gift shop sales
Sierra Mineral & Gem Society	Mineral display	Columbia	Month to month	$15 per month
Sinclair, Richard	Beach Equipment rental	Huntington Beach	11/ 1/60	20 percent of gross receipts to $5,000 25 percent from $5,000 to 10,000 30 percent over $20,000
Sinclair, Richard	Parking	Huntington Beach	12/31/59	1-49,000 cars—50 percent 50,000-99,999—55 percent 100,000-149,999—60 percent 150,000 or more—65 percent
Sinclair, Richard	Food, mooring and beach equipment rental	Salton Sea	6/30/60	12½ percent of gross receipts
Stokes, Doyne	Skating rink	Elsinore Lake	3/31/62	$75 per annum
Tanner Gray Line Motor Tours	Sightseeing	Will Rogers	10/31/59	No revenue
Tardio, James	Restaurant and roominghouse	Old Custom House	6/28/61	$125 per month

EXHIBIT 1

State of California
Department of Natural Resources
Division of Beaches and Parks

CURRENT CONCESSION AGREEMENTS—Continued

Concessionaire	Type	Park	Expiration date	Terms
Tosh Brothers	Food	Huntington Beach	12/31/60	$700 annual guarantee or 7½ percent of gross receipts
Tuolumne Lodge No. 21 I.O O.F.	Lodge hall	Columbia	5/31/60	$1 per year
Tuolumne County Justice Court	Justice court	Columbia	Month to month	$1 per month
U. S. Post Office	Post office	Columbia	1/ 1/60	$25 per month
Ventura County Boat Club	Boating	San Buenaventura Beach	6/30/60	No revenue
Walton, David L	Coffee shop	Gutierrez Adobe SHM	8/14/59	$75 per month
Will Rogers Polo Club	Polo field	Will Rogers	2/28/59	No revenue
Yodges, Joseph F.	Dwelling	Marshall Gold Discovery	12/31/60	$10 per month

NOTE: In addition to the above, there were also 37 motion picture and other special use permits issued during 1958

EXHIBIT II

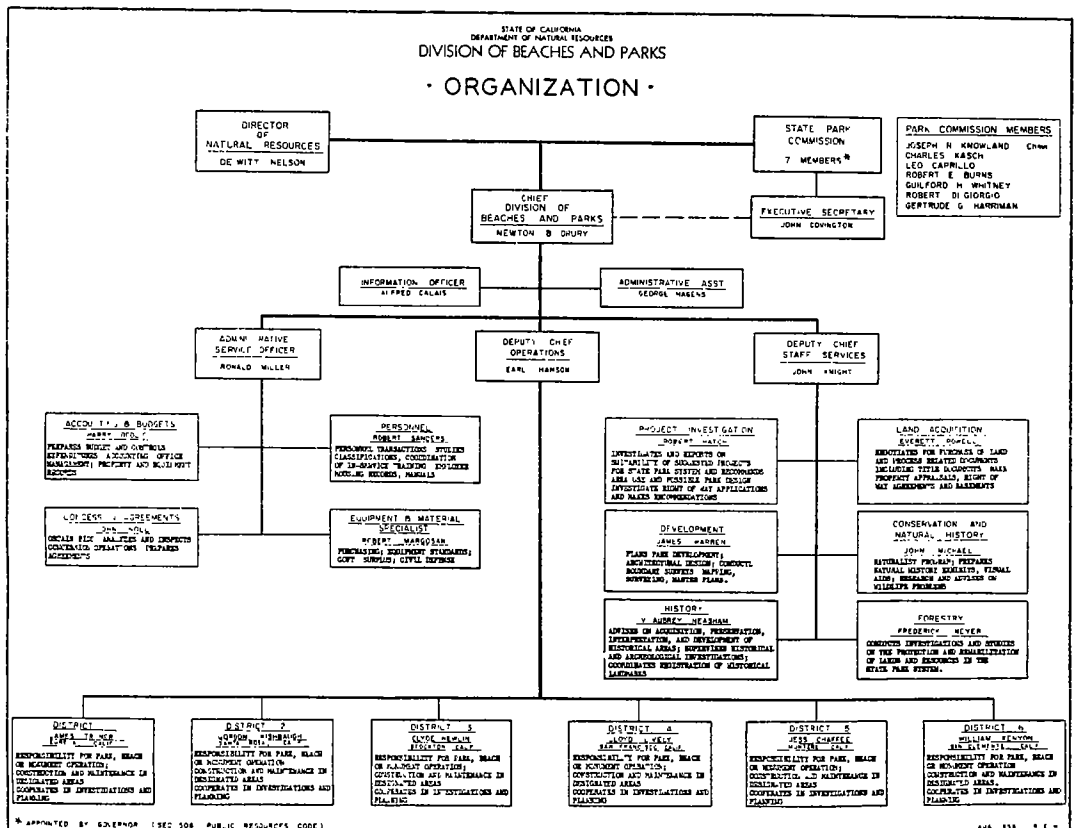

STATE OF CALIFORNIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF BEACHES AND PARKS
· ORGANIZATION ·
DIRECTOR OF NATURAL RESOURCES
DE WITT NELSON
STATE PARK COMMISSION
7 MEMBERS*
PARK COMMISSION MEMBERS
JOSEPH N KNOWLAND Chmn
CHARLES KASCH
LEO CARRILLO
ROBERT E BURNS
GUILFORD H WHITNEY
ROBERT DI GIORGIO
GERTRUDE G HARRIMAN
CHIEF DIVISION OF BEACHES AND PARKS
NEWTON B DRURY
EXECUTIVE SECRETARY
JOHN COVINGTON
INFORMATION OFFICER
ALFRED CALAIS
ADMINISTRATIVE ASST
GEORGE HAGENS
ADMINISTRATIVE SERVICE OFFICER
RONALD MILLER
DEPUTY CHIEF OPERATIONS
EARL HANSON
DEPUTY CHIEF STAFF SERVICES
JOHN KNIGHT
ACCOUNTING & BUDGETS
HARRY MOLL
PREPARES BUDGET AND CONTROLS EXPENDITURES; ACCOUNTING; OFFICE MANAGEMENT; PROPERTY AND MAIN MNT RECORDS
PERSONNEL
ROBERT SANDERS
PERSONNEL TRANSACTIONS; STUDIES CLASSIFICATIONS, COORDINATION OF IN-SERVICE TRAINING; EMPLOYEE MOTIVATING RECORDS, MANUALS
LOS DESIGN & AGREEMENTS
JOHN MOLL
OBTAINS BIDS; ANALYZES AND INSPECTS CONTRACTS; OPERATORS; PREPARES AGREEMENTS
EQUIPMENT & MATERIAL SPECIALIST
ROBERT MARGOSIAN
PURCHASING; EQUIPMENT STANDARDS; GOVT SURPLUS; CIVIL DEFENSE
PROJECT INVESTIGATION
ROBERT HATCH
INVESTIGATES AND REPORTS ON SUITABILITY OF SUGGESTED PROJECTS FOR STATE PARK SYSTEM AND RECOMMENDS AREA LAY OUT AND PRELIMINARY PARK DESIGN; INVESTIGATE RIGHT OF WAY APPLICATIONS AND MAKES RECOMMENDATIONS
LAND ACQUISITION
EVERETT MORELL
NEGOTIATES FOR PURCHASE OF LAND AND PROCESS RELATED DOCUMENTS INCLUDING TITLE DOCUMENTS; MAKES PROPERTY APPRAISALS; RIGHT OF WAY AGREEMENTS AND EASEMENTS
DEVELOPMENT
JAMES WARREN
PLANS PARK DEVELOPMENT; ARCHITECTURAL DESIGN; CONDUCTS BOUNDARY SURVEYS; MAPPING, SURVEYING, MASTER PLANS.
CONSERVATION AND NATURAL HISTORY
JOHN MICHAEL
NATURALIST PROGRAM; PREPARES NATURAL HISTORY BOOKLETS, VISUAL AIDS; RESEARCH AND ADVISES ON WILDLIFE PROBLEMS
HISTORY
V AUDREY NEASHAM
ADVISES ON ACQUISITION, PRESERVATION, INTERPRETATION, AND DEVELOPMENT OF HISTORICAL AREAS; SUPERVISES HISTORICAL AND ARCHEOLOGICAL INVESTIGATIONS; COORDINATES REGISTRATION OF HISTORICAL LANDMARKS
FORESTRY
FREDERICK MEYER
CONDUCTS INVESTIGATIONS AND STUDIES ON THE PROTECTION AND REHABILITATION OF LANDS AND RESOURCES IN THE STATE PARK SYSTEM.
DISTRICT 1
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION; CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS
COOPERATES IN INVESTIGATIONS AND PLANNING
DISTRICT 2
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION
CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS
COOPERATES IN INVESTIGATIONS AND PLANNING
DISTRICT 3
CLYDE HEMLIN
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION; CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS
COOPERATES IN INVESTIGATIONS AND PLANNING
DISTRICT 4
LOYD LIELY
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION; CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS
COOPERATES IN INVESTIGATIONS AND PLANNING
DISTRICT 5
JESS CHAFFEE
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION; CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS
COOPERATES IN INVESTIGATIONS AND PLANNING
DISTRICT 6
WILLIAM KENYON
RESPONSIBILITY FOR PARK, BEACH OR MONUMENT OPERATION
CONSTRUCTION AND MAINTENANCE IN DESIGNATED AREAS.
COOPERATES IN INVESTIGATIONS AND PLANNING
* APPOINTED BY GOVERNOR (SEC 508 PUBLIC RESOURCES CODE)

EXHIBIT III

LEGISLATIVE ANALYST'S RECOMMENDATIONS FOR ORGANIZATION OF THE DIVISION OF BEACHES AND PARKS—STAFF SERVICES SECTION

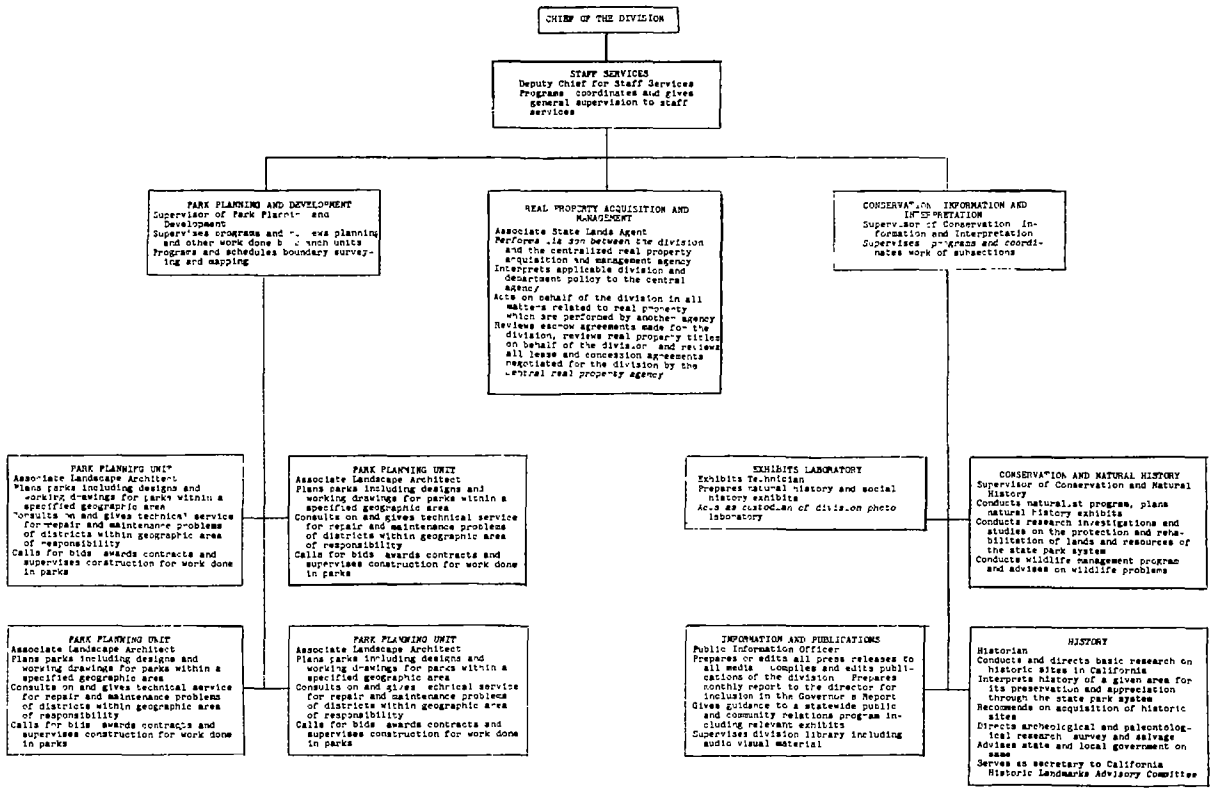


EXHIBIT IV

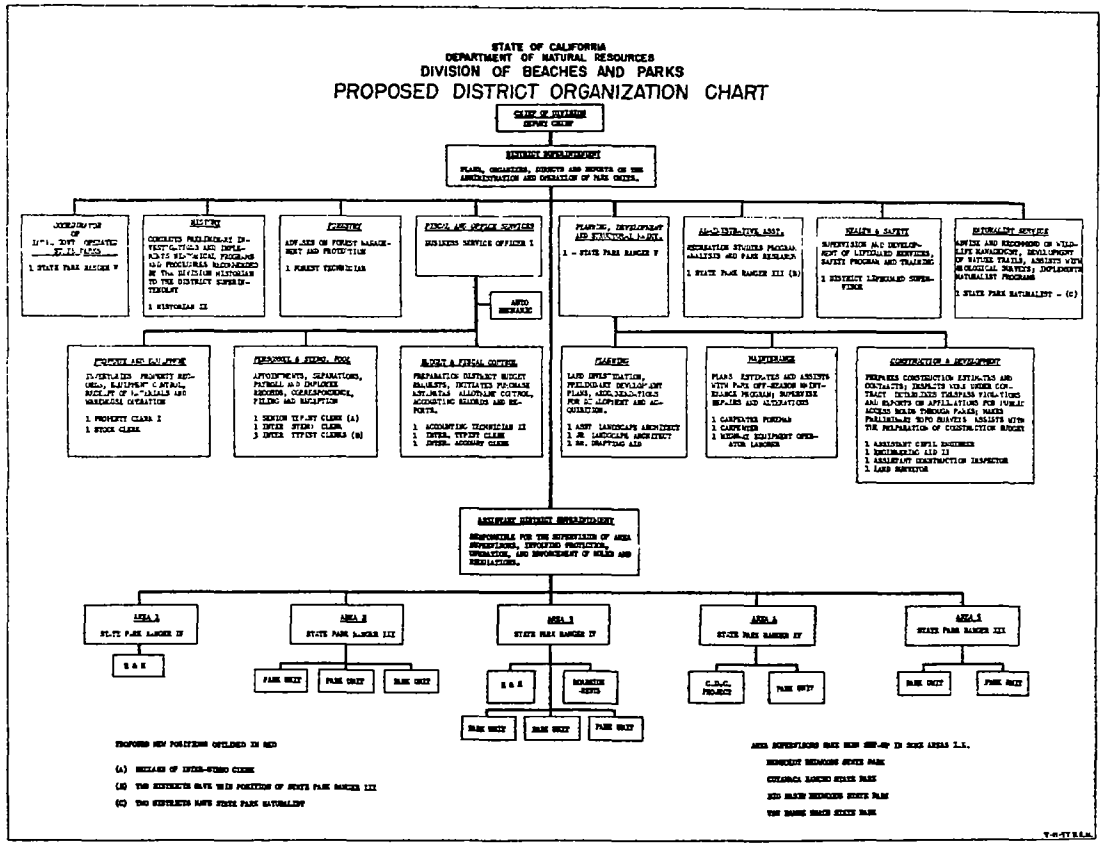

STATE OF CALIFORNIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF BEACHES AND PARKS
PROPOSED DISTRICT ORGANIZATION CHART
CHIEF OF DIVISION
DEPUTY CHIEF
DISTRICT SUPERINTENDENT
PLANS, ORGANIZES, DIRECTS AND REPORTS ON THE ADMINISTRATION AND OPERATION OF PARK UNITS.
1 STATE PARK RANGER V
HISTORY
CONCRETE PRELIMINARY INVESTIGATIONS AND IMPLEMENTS HISTORICAL PROGRAMS AND PROCEDURES RECOMMENDED BY THE DIVISION HISTORIAN TO THE DISTRICT SUPERINTENDENT
1 HISTORIAN II
FORESTRY
ADVISES ON FOREST MANAGEMENT AND PROTECTION
1 FOREST TECHNICIAN
FISCAL AND OFFICE SERVICES
BUSINESS SERVICE OFFICER I
AUTO MECHANIC
PLANNING, DEVELOPMENT AND STRUCTURAL ENGRG.
1 - STATE PARK RANGER V
ADMINISTRATIVE ASST.
RECREATION STUDIES PROGRAM ANALYSIS AND PARK RESEARCH
1 STATE PARK RANGER III (B)
HEALTH & SAFETY
SUPERVISION AND DEVELOPMENT OF LIFEGUARD SERVICES, SAFETY PROGRAM AND TRAINING
1 DISTRICT LIFEGUARD SUPERVISOR
NATURALIST SERVICE
ADVISE AND RECOMMEND ON WILDLIFE MANAGEMENT, DEVELOPMENT OF NATURE TRAILS, ASSISTS WITH GEOLOGICAL SURVEYS; DEVELOPMENT NATURALIST PROGRAMS
1 STATE PARK NATURALIST - (C)
PROPERTY AND EQUIPMENT
INVENTORIES PROPERTY REQUIRES, EQUIPMENT CONTROL, RECEIPT OF MATERIALS AND WAREHOUSE OPERATION
1 PROPERTY CLERK I
1 STOCK CLERK
PERSONNEL & STENO. POOL
APPOINTMENTS, SEPARATIONS, PAYROLL AND EMPLOYEE RECORDS, CORRESPONDENCE, FILING AND RECEPTION
1 SENIOR TYPIST CLERK (A)
1 INTER. STENO. CLERK
3 INTER. TYPIST CLERKS (B)
BUDGET & FISCAL CONTROL
PREPARATION DISTRICT BUDGET REQUESTS, INITIATES PROGRAM ESTIMATES, ALLOTMENT CONTROL, ACCOUNTING RECORDS AND REPORTS.
1 ACCOUNTING TECHNICIAN II
1 INTER. TYPIST CLERK
1 INTER. ACCOUNT CLERK
PLANNING
LAND INVESTIGATION, PRELIMINARY DEVELOPMENT PLANS, ARCHITECTURE FOR DEVELOPMENT AND ACQUISITION.
1 ASST. LANDSCAPE ARCHITECT
1 JR. LANDSCAPE ARCHITECT
1 JR. DRAFTING AID
MAINTENANCE
PLANS ESTIMATES AND ASSISTS WITH PARK OFF-SEASON MAINTENANCE PROGRAM; SUPERVISE REPAIRS AND ALTERATIONS
1 CARPENTER FOREMAN
1 CARPENTER
1 HEAVY EQUIPMENT OPERATOR LABORER
CONSTRUCTION & DEVELOPMENT
PREPARES CONSTRUCTION ESTIMATES AND CONTRACTS; INSPECTS WORK UNDER CONTRACT INCLUDING TRESPASS VIOLATIONS AND REPORTS ON APPLICATIONS FOR PUBLIC ACCESS ROADS THROUGH PARKS; MAKES PRELIMINARY TOPO SURVEYS ASSISTS WITH THE PREPARATION OF CONSTRUCTION BUDGET
1 ASSISTANT CIVIL ENGINEER
1 ENGINEERING AID II
1 ASSISTANT CONSTRUCTION INSPECTOR
1 LAND SURVEYOR
ASSISTANT DISTRICT SUPERINTENDENT
RESPONSIBLE FOR THE SUPERVISION OF AREA SUPERVISORS, INVOLVING PROTECTION, OPERATION, AND ENFORCEMENT OF RULES AND REGULATIONS.
AREA 1
STATE PARK RANGER IV
E & M
AREA 2
STATE PARK RANGER III
PARK UNIT
PARK UNIT
PARK UNIT
AREA 3
STATE PARK RANGER IV
E & M
ROUNDING-RESTS
PARK UNIT
PARK UNIT
PARK UNIT
AREA 4
STATE PARK RANGER IV
C.D.C. PROJECT
PARK UNIT
AREA 5
STATE PARK RANGER III
PARK UNIT
PARK UNIT
PROPOSED NEW POSITIONS OUTLINED IN RED
(A) RECLASS OF INTER-STENO CLERK
(B) THE DISTRICTS HAVE THIS POSITION OF STATE PARK RANGER III
(C) THE DISTRICTS HAVE STATE PARK NATURALIST
AREA SUPERVISORS HAVE BEEN SET-UP IN SOME AREAS I.E.
MONTEREY BEDWOOD STATE PARK
COLUMBIA RANCHO STATE PARK
BIG BASIN BEDWOOD STATE PARK
VAN DAMME BEACH STATE PARK

EXHIBIT V

CRITERIA FOR STATE PARKS

At their meeting in Los Angeles on October 19, 1956, the California State Park Commission unanimously adopted a resolution which summarized and reaffirmed the basis on which areas should be included in the State Park System.

The resolution was as follows:

Resolved, That the California State Park Commission, in order to indicate the basis of selection of State Park areas, approve and reaffirm the following principles:

State Park Criteria

Ever since the Legislature in 1927 authorized the establishment of a *State Park System,* and by statute (Public Resources Code, Section 5006) empowered the State Park Commission to acquire, as a part of that system such lands and other properties as "the commission deems necessary or proper for the extension, improvement or development of the State Park System," there have been definite criteria for the establishment of state parks.

These have been used as a guide by the commission in the acquisition of state park lands in accordance with their understanding of the state park concept since the founding of the system. They have been frequently stated, notably in four documents: (1) The Olmstead Survey and Report to the Legislature (Chapter 764, Statutes of 1927); (2) Statement by the original State Park Commission in 1928, entitled "State Parks—What Are They?"; (3) Supplementary Olmstead Survey of 1950 (Section I, Chapter 1422, Statutes of 1945); and (4) The Five-year Master plan, 1956

These criteria involve certain principles.

1. Areas in the State Park System should be of statewide and not local significance.
2. They should possess outstanding qualities of landscape or features of special significance that make their preservation and public recreational use a matter of statewide concern.
3. They should be on a scale worthy of inclusion in the state system.
4. They should be unified and complete areas with logical boundaries.
5. State parks are primarily natural areas. Developments are for the purpose of making the areas available for public enjoyment in a manner consistent with the preservation of natural attractiveness and should be of the simpler sorts in a natural environment (i e camping, picnicking, sightseeing, nature study, hiking, riding, boating, swimming, fishing, etc.) involving no major modification of their lands, forests and waters, and without extensive introduction of artificial features such as athletic fields, playgrounds, golf courses, and other forms of recreational developments that primarily are for local benefit.
6. Funds for the State Park System are not intended to be used as a subsidy to local recreational developments. Important as these are, they have traditionally been considered as the responsibility of local communities, and are not a part of or related to the State

Park System, which supplements on a statewide basis the local recreational provisions.

7. The state park areas should be equitably distributed so as to assure proper balance in their use by the citizens of all parts of the State, but not necessarily located in specific communities on the basis of population or area. The statewide value of the present State Park System is shown by the fact that a majority of the visitors to many remote parks come from the populous centers of the State. One of the primary purposes of the state parks is to afford city dwellers the benefits of life in the open country; therefore, county lines cannot be taken as the basis of distribution of parks, but rather the determining factor should be the availability of the types of lands that can most satisfactorily afford the sorts of outdoor recreation that are characteristic of state parks.
8. In determining the value to the different parts of the State of areas proposed for state park purposes, not only should reasonable accessibility to the entire population be taken into account, but also the relative cost to the State in terms of the types of recreation characteristic of state parks.

The above and other established principles have been followed by successive State Park Commissions to the best of their ability in building up the State Park System, and according to the experience and understanding of the State Park Commission have been generally supported by the Legislature and the people of the State. They are the basis of action by the State Park Commission in carrying out the responsibility placed upon it by the Legislature

APPENDIX B

PRELIMINARY REPORT ON THE ACQUISITION PROCESS OF THE DIVISION OF BEACHES AND PARKS

DEPARTMENT OF NATURAL RESOURCES

Prepared by Legislative Analyst

March 17, 1958

ACQUISITION OF PROPERTY FOR STATE BEACHES AND PARKS

Acquisition of state park property, in the broad sense, begins when a project is proposed and ends when the deed of state ownership is recorded and the seller is paid.

The initial steps of acquisition, such as project investigation, are more closely related to planning and development than to acquisition per se, the latter being essentially a transfer of real estate ownership. All steps of the acquisition process are shown on Chart I attached, but only the technical real estate aspect of acquisition will be discussed here. Project investigation and development are discussed separately.

The acquisition process is a complicated one. Technically acquisition begins at Step 7 on the chart, which is the point when the acquisition unit of Beaches and Parks takes steps to have appraisals made of the property within the scope of the project. Considering the fact that Chart I shows the steps of an acquisition which has met no problems of title, no questions, etc, by any control agency that would require backtracking, and considering also that several of the steps in the chart have their own internal processes, then the acquisition process becomes complex indeed.

Many of the steps shown in the flow chart are required by law. Others are matters of administrative policy which serve apparently necessary purposes. Some steps appear completely unnecessary and could be eliminated. Others could be combined, and many might be improved as to their internal processes.

The following are supplementary details on Chart I, commencing with Step 7, the beginning of the technical acquisition process.

Step 7. The technical acquisition process begins when the State Park Commission approves a project and gives the Division of Beaches and Parks the authority to obtain appraisals of the property. Authority to seek Public Works Board approval is normally given at this time also. These actions are required by law.

Step 8. The Division of Beaches and Parks through its staff and/or independent fee appraisers, proceeds to appraise the property within the scope of the approved project. Because the condition of the title of a piece of land will affect its value, preliminary title reports are normally ordered before the appraisals are made. The feasibility of a project, to a certain extent, is judged by the results of the appraisals. Making appraisals is standard to all state acquisition projects.

Step 9. Approval of the project by the Public Works Board. In making its decision, the Public Works Board uses an analysis prepared by the Budget Division of the Department of Finance and information supplied in a report by the Division of Beaches and Parks. Here the feasibility of the project is considered—i.e. Will the project as planned and budgeted accomplish its intended purpose? Public Works Board approval has been required in all the recent legislative appropriations

for park acquisitions Where it is not required by law, this step is bypassed.

Step 10. Presenting the appraisals to the State Park Commission. This is a carryover from the early days of the division when raising matching funds made it necessary for members of the commission to practically live with a project from the beginning through to completion. The commission at that time, in effect, headed a fund drive as well as acting as the administrative head of the division. Every acquisition was a careful balancing of available funds from gifts and appropriations against a long sought for goal Thus the commission was vitally interested in the appraisal reports Today they rarely, if ever, examine them.

Step 11 Approval of the appraisals by the Department of Natural Resources. This step is required by policy of the Department of Finance as a preliminary to its own review. This step appears to be a wise control which serves as a review by an agency cognizant of the State's overall recreation and conservation program.

Step 12. Review of the project by the deputy director of the Department of Finance prior to his final approval acting for the department which approval is required by law. Only the authority to negotiate is given at this point. Final approval is always withheld until the negotiations are completed and all title matters are cleared. This review is based, to a great extent, on the same data presented to the Public Works Board. The deputy director either sits on the Public Works Board for the Director of Finance or is present at its meetings in some other capacity, and thus he is familiar with all the data necessary to make his decision.

Step 13. The Division of Beaches and Parks' staff negotiates with the property owners and reviews the title documents This step is standard in all acquisition programs of the State. Here the Division of Beaches and Parks needs improvement of internal procedures. These will be discussed separately in this report.

Step 14. Adopting the purchase resolution by the State Park Commission. Having previously made its decision to go ahead with the project (Step 7), the State Park Commission rarely, if ever, questions an acquisition at this point. The action taken in this step is largely a routine compliance with the law. An acquisition, at this point, has had considerable staff and control agency review and will be reviewed again by the Department of Natural Resources and Finance and possibly the Attorney General.

Step 15 Approval of the purchase by the Department of Natural Resources. This step is required by policy of the Department of Finance as a precautionary screening prior to its own review. Unless a question is raised, this review requires very little time.

Step 16. Approval of the acquisition by the Department of Finance and drafting of escrow instructions This step is required by law as a necessary safeguard to the interests of the State. A complete review of all documents is conducted. Unless there is a serious question as to the propriety of the price paid, the condition of the title or other documents, little time is consumed by this safeguard.

Step 16.5. Review of all documents on acquisitions over $50,000 by the Attorney General This is part of the final review given in Step 16

as a policy of the Department of Finance which may, whenever it deems that the nature of the documents warrants this review, refer any and all acquisitions to the Attorney General. Unless a serious question is raised by the Attorney General this safeguard consumes little time.

Step 17. Issuance of the warrant by the State Controller This is done at the request of the Department of Finance and is required by law. This step consumes little time.

Step 18. Recording the amount of the warrant and other data in the Department of Natural Resources. This is a fiscal action done as a matter of routine While the step is necessary, time could be saved if the warrant proper were sent directly to the Department of Finance for mailing and a statement by the State Controller certifying its amount and other pertinent data were to be sent to the Department of Natural Resources.

Step 19. The Department of Finance receives the warrant from the Department of Natural Resources and mails it together with the escrow instructions to the title company. This is the final action in the acquisition process taken by a state agency.

Step 20. The title company complies with the escrow instruction, records the deed in the county recorders office, pays the seller and returns the deed and title documents to the Department of Finance Recording of the deed gives it legal status and conveys the property to the State, thus completing the acquisition process The original copy of the deed is filed with the Secretary of State by the Department of Finance.

It would appear from the above series of steps that there is an appreciable rehandling of documents by the same agencies. Some of these steps might be combined in the interest of saving time and effort without jeopardizing the necessary safeguards

For example, in Step 8 the Division of Beaches and Parks prepares appraisals Bypassing the Director of that department (Natural Resources) it sends the appraisals to the Public Works Board for approval in Step 9. The staff of the Director of Finance study the project in behalf of the Public Works Board and assist the board in reaching its decision. Not, however, until after the appraisals are returned to the State Park Commission in Step 10 for a perfunctory review and to the Director of Natural Resources for his belated review in Step 11, are the papers returned to the Deputy Director of Finance for his approval in Step 12. This despite the fact that the Director of Finance is chairman of the Public Works Board and has already received the advice of the Deputy Director on the project before it is considered by that board. From Beaches and Parks to Director of Natural Resources to Director of Finance for recommendation to the Public Works Board would conform to the pattern of approval followed in the case of ordinary construction acquisition projects and would seem to be the proper course to follow here.

Similarly in Step 14 the State Park Commission is asked to adopt a purchase resolution which again appears perfunctory and could be part of Step 7, rescindable in the event situations arise which might call for such action.

Flow Chart I represents the process followed by an acquisition which proceeds without complicated interruption from beginning to end. If

at any point a change is requested or an error is registered, the documents stop until the question is cleared, or, in the event a change is required by one of the control agencies, the acquisition documents return to the point where the change must be made following which they start through the necessary steps again. For example, if the Department of Finance at Step 16 questions a provision in the title document and the question is simply a matter of clarification, the documents wait in the Department of Finance until a memo goes back through the Department of Natural Resources to the title review unit in the Division of Beaches and Parks and returns with an acceptable answer.

On the other hand, if the Department of Finance at Step 16 raises a question regarding a serious restriction or condition which must be cleared by quitclaim deed, the documents return through the Department of Natural Resources to the title review unit of the division for securing the quitclaim deed and on to the State Park Commission which must accept this new interest in the land The documents then are processed back through the Department of Natural Resources to the Department of Finance.

The State Park Commission meets only once a month and it may take some 30 days to transcribe the certified copy of its minutes. For this reason an acquisition which must be resubmitted to the commission may be considerably delayed.

ACQUISITION POLICY AND PROCEDURES WITHIN THE DEPARTMENT OF NATURAL RESOURCES

The key steps in real property acquisition are appraisal, negotiation, filing of escrow, title search, review and clearing and recording of the deed Of these steps, the ones requiring the most discretion are responsibilities of the staff of the Division of Beaches and Parks. The functions performed by the other agencies of the State are either supplemental to these or are control and safeguard functions.

There are in the Division of Beaches and Parks two units performing the basic functions of appraisal and negotiation. Two distinct and different methods exist in the division relative to the acquisition process. The acquisition unit in the Sacramento office has one approach and set of procedures and the acquisition unit in Los Angeles has a different approach and set of procedures. The results obtained by the two acquisition units appear to be decidedly different also. In order to understand the reason for the two different results, it is necessary to examine each unit independently of the other.

THE SOUTHERN CALIFORNIA ACQUISITION UNIT

The acquisition unit in Los Angeles is responsible for all acquisitions from the Mexican border north to and including Monterey County. It is under the direction of a senior state park lands acquisition officer who is given considerable freedom in determining the policies and procedures governing his operation.

There is in this office a well-defined philosophy for the guidance of acquisition activities. An instruction manual has been established for staff guidance which sets forth procedures and policies to be followed in making appraisals and in negotiating with owners All transactions

by the staff are recorded on control or flow charts which give a complete up-to-the-minute picture of the progress of each acquisition at every step, including those handled at the division level or higher. As many steps as possible have been reduced to routine by standardized instructions and forms.

All appraisal assignments are made in writing accompanied by detailed special instructions. Appraisal reports are carefully reviewed for technique used, clarity, completeness, proper form and documentation of findings, using a comprehensive check list.

Fee appraisers are selected on the basis of their qualifications which must be on file in the Los Angeles office. Fees are set in advance by contract.

The general policy of this office governing negotiations with landowners holds that the negotiator should have complete confidence in the soundness of the appraisals, since the division pays to secure the services of the best qualified appraisers.

The policy also assumes that the low appraisal is a reasonable estimate of the market value of the property in question.

Another requirement of the Los Angeles office is that the offers made by the negotiator should begin below the low appraisal in order to afford latitude in negotiation to achieve closing at or below the low appraisal. No negotiator has, within his own authority, the right to offer a landowner more than the low appraisal. Only under unusual circumstances will the senior in charge of the Los Angeles office authorize a negotiator to offer more than the low appraisal, since the general policy of this office is to use the processes of eminent domain if the property holder will not settle at the low appraisal.

This policy is based on the philosophy that the negotiator and his senior, as well as their superiors, are stewards of the public's money and cannot assume the authority to pay more for any property than it is worth. If too high a price is to be paid, as determined by appraisal, then the burden of that decision must be shifted to the courts. Standards for the techniques of negotiating are high and instructions to the negotiators are explicit.

The result of the approach and the methods used for acquisitions in the Los Angeles office is indicated by the fact that the total paid for all acquisitions, except gift-deeded lands but including court-awarded and stipulated judgments, made through this office from July 1, 1952, through December 31, 1957, exceeded the total of all low appraisals by only 0.89 percent. For the same period, including all acquisitions except gift-deeded lands and court-awarded judgments, the total of all prices paid exceeded the total of all low appraisals by only 0.69 percent.

NORTHERN ACQUISITION OFFICE

The acquisition unit in Sacramento is, like the Los Angeles unit, a subsection in the staff services section. Unlike the Los Angeles unit, the supervisor responsible for the acquisition process in Northern California, until quite recently, performed other major responsibilities as well. The title review unit for both the northern and southern acquisition offices, is located in the Sacramento acquisition unit, and until February 1, 1958, the supervisor of acquisition was also the supervisor of

project investigation and land planning. The greatly increased activity of the division, in the last five years has multiplied the responsibilities of the land planning and acquisition supervisor. On February 1, 1958, these functions were assigned to separate supervisors under a deputy chief.

However, now as before reorganization, the appraisal and negotiation functions headed by a senior state park lands acquisition officer are within the boundaries of responsibility of the Acquisition Supervisor. The Senior State Park Lands Acquisition Officer of the northern office has the same responsibilities as his counterpart in Los Angeles, but he is responsible to the supervisor in the Los Angeles office under the existing temporary arrangement.

The title review section is headed by a supervising Land Title Examiner who is also responsible to the Acquisition Supervisor. The position of Supervisor of Acquisition and Land Title Examination was created to take over that part of the Land Planning and Acquisition Supervisor's functions when acquisition was separated from land planning and the latter position was abolished. This move promises to make possible much closer overall supervision of the acquisition program.

The new position is being filled on a part-time basis only at the present, no one in the northern office being considered qualified to fill the position. The senior in charge of the southern acquisition unit is unwilling to come to Sacramento on a permanent basis, but is filling in the position on a temporary, part-time basis until a qualified successor is found. He commutes by plane from Los Angeles, spending half time in each part of the State.

Before the senior from the southern office assumed overall supervision of the acquisition program, there was no manual of instruction in the Sacramento unit. No control charts or flow charts were used in either the appraisal-negotiation section or the title section until they were initiated here by the acting acquisition and land title supervisor.

An examination of the operation of the Sacramento acquisition office indicates that instructions to the appraisers were usually given orally, often over the telephone. Therefore, misunderstanding concerning the instructions could very easily have occurred.

Although standard fees were paid to the independent appraisers ($100 per day), and the best appraisers were sought, there was no file of fee appraisers and their qualifications kept in the office.

Appraisal reports were not reviewed for technique used, compliance with instructions, clarity, accuracy, etc. A check sheet for reviewing appraisals did not exist in the office.

The Department of Natural Resources, as part of its review of appraisals, did have several appraisal reports analyzed for technique, clarity, accuracy, etc. This was done by a qualified independent appraiser selected by the department, and his report was so critical of the division's appraisal reports that the department seriously questioned the validity of the appraisals The significant criticisms were that the instructions to the appraisers were not adequate; the techniques used were wrong for the kind of property appraised; and the values set were probably as much as 30 percent too high

Reappraisals of large parcels of one project have been ordered at considerable additional cost to the State and the results are not available as of this writing.

Based on actions and results, this tacit policy would appear to be that acquisition is urgent, that pressures from all quarters justify almost any approach including possibly paying more than property is worth in order to acquire it in the shortest time.

The results of this apparent policy in negotiating for land is demonstrated in a tally of all land acquisition payments in the northern section of the State, including court awards and stipulated judgments but not gift deed lands, from July 1, 1952, through December 31, 1957, which shows the total paid to be 13.73 percent above the total of the low appraisals. The total of all acquisitions, including stipulated judgments but not court awards or gift deeded lands, shows the total price paid to be 12.4 percent above the total of the low appraisal. These figures are startling when compared to 0.89 percent and 0.64 percent, respectively, in the south. (See Exhibit I.)

Examination of individual grantor files, selected at random and including purchases by the northern and the southern offices, indicates that on the average the negotiators in the north carry on negotiations with a landowner for a longer time than do the southern negotiators. Many northern negotiations seem to carry on for several months, and in some cases years, while offers continue to rise in amount. Many southern negotiations are closed at just below the appraisal in two or three days and some in one day (assuming that a negotiation is considered completed when the landowner agrees to sell at a price acceptable to the State).

There appears to be definite reluctance on the part of the northern acquisitions office to acquire property through the process of eminent domain. The files show many cases where prices above the high appraisals were paid without a condemnation resolution being requested *One of the files appeared to show that a price above the high appraisal was agreed to by the division before the appraisals were even completed*

Many northern acquisitions have been delayed because the Departments of Natural Resources or Finance requested the division to give further justification for the price agreed to. Dissatisfaction has been expressed in the division because the Department of Finance questions paying any amount over 10 percent above the low appraisal.

The stated reasons why the northern office does not like to use condemnation proceedings to acquire property are because of its bad effects on public relations, because it takes an unreasonably long time (up to five years), and because judgments are often excessively high. (See Table II.) This is in direct contrast to the policy followed by the Los Angeles unit.

It is also apparent that the condemnation process is administered differently in the Sacramento Office of the Attorney General than in his Los Angeles office. This will be discussed later in the report.

TITLE EXAMINATION SECTION

The title examination unit in the Sacramento office serves both Northern and Southern California, although the preliminary title examination for the Los Angeles office is done by one of the appraiser-negotia-

tors. The Los Angeles office has been authorized a land title examiner but has not yet been able to recruit one.

The State requires that the title to all land purchased be free of any and all conditions, covenants and restrictions which could possibly interfere with the State's intended use of that land. Because the state title requirements are strict and because lands purchased often have very complicated titles, clearing the titles often requires several months. As a result, the seller often becomes impatient with the time lapse between his entering into escrow and the date he is paid for his property. When title restrictions cannot be cleared through ordinary means, then the State exercises the power of eminent domain and clears the titles through court action.

Title search and clearing is done by a title company in the county where the land is located. Title examination is done by the Division of Beaches and Parks, the Department of Finance, and in some cases by the Attorney General. The Department of Finance does not give its approval of any land acquisition until it is satisfied the title is clear.

The title examination unit of Beaches and Parks has not been able to staff all of its authorized positions, apparently because the salary schedule for land title examiners of the Division of Beaches and Parks, when compared with salaries of like positions in private industry and in the Division of Highways, is too low to attract qualified applicants.

Title review is tedious and exacting. Several files selected at random give evidence that every echelon of title review had, at some point in time, overlooked some matter that had to be cleared before the State could accept the deed. Title clearing requires much time-consuming correspondence between the division and the title company. Whenever the Department of Finance or the Attorney General find a condition, covenant or restriction which requires clearing, but was overlooked on the division level, there is a long delay while the necessary correspondence processes back and forth through channels.

Title matters seem to be the chief cause of delay in what would be an ordinary, routine purchase of land. In considering the existing organization, the situation is aggravated by two things: (1) the need to fill currently authorized examiner positions in the title review unit; and (2) the unavoidable time delay in correspondence between Finance and the Division of Beaches and Parks. We will submit a specific recommendation relative to the title review function in the summary of recommendations.

THE PROCESS OF EMINENT DOMAIN

Power to initiate the process of eminent domain in order to acquire state park property rests solely with the State Park Commission. Normally, the commission passes a condemnation resolution when property cannot be acquired through negotiation at a price it considers reasonable, or when title must be cleared through condemnation. The Department of Finance must then approve the condemnation action.

The legal phases of condemnation proceedings are carried out in the name of the State by the Attorney General who represents the division and the State in court. The Attorney General is apparently the key to the success of any condemnation action but much co-operation and action is required of the Beaches and Parks' staff also.

The Los Angeles and Sacramento offices of the Attorney General are organized differently for handling condemnation actions and each uses a different approach. The basic steps in condemnation action are prescribed by law and do not vary between the two offices.

Because the Division of Beaches and Parks apparently has two different policies regarding the use of condemnation, the difference in approach used by the two offices of the Attorney General can be somewhat understood. In the Sacramento Office of the Attorney General, condemnation actions for Beaches and Parks' cases are handled by a single deputy in the Public Resources Law Section. There are at the present time 15 cases pending in this office.

In an interview with this individual, the following comments were elicited:

1. Basic procedures are the same as in the Los Angeles office.
2. Filing condemnation action with the court of jurisdiction requires about two weeks after the necessary documents are received in the office, provided they are complete and in proper form.
3. Much delay in filing is caused when the litigation report, the condemnation resolution passed by the State Park Commission, and the legal description of the property do not reconcile exactly. When they do not, as sometimes happens, it is a matter of processing the documents back through channels to the division and the State Park Commission for necessary action.
4. It is generally a better policy to reach a stipulated judgment rather than go to trial. This is true even when the amount of the stipulation is slightly in excess of the high appraisal. (It is important to note that often appraisals are old and invalid by the time stipulated judgments are agreed to by both the Attorney General and the defendant.)
5. Close contact with the Division of Beaches and Parks staff is maintained at all times when the Attorney General is negotiating with a defendant. This contact is usually by telephone but important matters are confirmed by memo.
6. The Attorney General cannot agree to any price for stipulation for judgment without a resolution from the State Park Commission and the approval of the amount by the Department of Finance.
7. There are cases which have been pending for a long period of time. The reasons for this are as many as there are cases—but generally the delays are caused by the need for corrections in the documents and *by the policy of continued negotiation on the part of the Attorney General rather than taking a case promptly to trial.* Whether this is the policy of the Attorney General or an application of the division's policy of negotiating could not be determined. Much of the delay can possibly be attributed to the heavy workload of the responsible deputy.

Southern California condemnation actions for acquiring state park property in that portion of the State are handled in the Attorney General's Office in Los Angeles by the Condemnation Section which is a unit within the Government Law Section.

This Condemnation Section formed in February, 1957, is staffed with three full-time deputies and one part-time deputy. It is responsible for handling the condemnations of all state agencies and departments in the southern part of California except the Division of Highways.

When the section was created there were 11 actions for Beaches and Parks pending, some of which were five years old. All of these have either been closed by stipulated judgment or by court award, or have been set for trial. None of the pending trials is later than June 30, 1958.

Nine new actions have been opened since February, 1957, and four of these have been closed by court award or stipulated judgment.

The following criteria have been laid down by the deputy in charge of the condemnation section in Los Angeles:

1. The purpose of condemnation action is to acquire property for the State at the lowest cost and within the least time which will afford proper safeguards for the State and will be fair to the private landowner.

2. It is not proper for the State to acquire bargains at the expense of the individual but neither is it proper for any state officer, board or commission to pay more for any property than the property is worth.

3. No case will be closed by stipulated judgment for any figure higher than the high appraisal.

4. All action in new cases should be processed in a manner that will allow them to be closed by stipulated judgment or be brought to trial within one year. This principle is very important because it very materially affects the price the State may ultimately have to pay in order to acquire the property.

5. No negotiations will be conducted with the defendant without a representative of the Beaches and Parks' staff present and participating. This gives the deputy the benefit of the background information in the division as well as the special skills of the division's negotiator.

6. Thorough preparation, well in advance, must be made for every trial and for every conference with the defendant—even to the point of gathering all the members of the "team" together and conducting a mock trial with exhaustive cross examinations

The total of 16 condemnation awards or stipulated judgments for the southern part from July 1, 1952, through December 31, 1957, was $82,035 as shown in Table I.

CONTROL AGENCIES INVOLVED IN ACQUISITION

The Department of Natural Resources exercises a control function over the Division of Beaches and Parks' acquisitions. Other control agencies are the Department of Finance, the Public Works Board and the Attorney General.

The Department of Natural Resources and the Attorney General exercise controls over certain phases of acquisitions because Department of Finance policy requires their recommendations as a prerequisite to its own approval, the latter step being by law.

We have not found any of these controls by these agencies to be unnecessary or excessive and they appear to be sound safeguards, well worth the time they require.

GENERAL FINDINGS AND RECOMMENDATIONS

1 The time it takes for an acquisition to be processed from negotiation to recording of the deed and paying the seller depends to a great degree upon the circumstances of the individual case. The chief delay seems to stem from title matters and delays caused when the Department of Finance questions a title determination made by the Beaches and Parks' title unit Title determination is the most complex of the review functions It is our understanding that general state policy as established by the Department of Finance governs the determinations. Much time could be saved between the seller's opening of escrow and the recording of the deed if the title review function were handled entirely within the Department of Finance. It is our recommendation that all title review and title determinations be made within the Department of Finance with no title review being conducted within the Division of Beaches and Parks.

2. We have only minor suggestions regarding the operation of the Los Angeles office of Beaches and Parks So far as our observations have gone, this office is following sound policies and procedures and is yielding reasonably satisfactory results

3 The Sacramento acquisition unit is now adopting many of the policies and procedures followed by the Los Angeles unit. This is because the supervisor of the Los Angeles unit is temporarily in charge of both. We feel steps should be taken to assure the continued existence of adequate policy and sound procedures in the Sacramento office. Perhaps the best way to do this is by selecting a real property appraiser and negotiator with the highest possible qualifications and broadest possible experience for permanent appointment to the position of land acquisition and title examination supervisor. This position should be given a classification and salary rating that will attract the best qualified applicants.

We see no evidence of change from the Sacramento office's historic policy of prolonged negotiation, and reluctance to condemn even at the risk of paying above the high appraisal being followed in the Northern California acquisitions. We do not believe that this is a wise policy or an effective stewardship of state funds. The experience of the Los Angeles unit in this regard proves that state park lands can be acquired at a fair and reasonable cost. This applies to acquisition either by negotiation or condemnation.

4. We recommend that both the Division of Beaches and Parks and the Attorney General make a study of the practices followed and the methods used by their respective Los Angeles units and adopt the soundest and best of these practices and procedures as standards for both areas.

TABLE I

CONDEMNATION AWARDS—SOUTHERN UNIT

July 1, 1952-December 31, 1957

Project	*Award*	*Low Appraisal*
San Diego County Master Plan	$8,750	$9,400
Oceano Beach	75	75
*Carmel River (stipulated judgment)	34,500	25,800
Pismo Beach	400	400
Pismo Beach	170	170
Pismo Beach	30	30
Pismo Beach	330	225
San Buenaventura	6,400	6,000
San Buenaventura	1,110	1,110
Mission Bay	27,500	23,287
San Buenaventura	160	150
Pismo Beach	100	25
San Buenaventura	10	10
San Buenaventura	100	40
Pismo Beach	400	50
San Buenaventura	2,000	1,715
	$82,035	$68,487

Awards 20 percent above low appraisal
One project below low appraisal
Six projects at low appraisal

* This award was made after Monterey County was assigned to the Los Angeles acquisition unit

TABLE II

CONDEMNATION AWARDS—NORTHERN UNIT

July 1, 1952-December 31, 1957

Project	*Award*	*Low Appraisal*
Clear Lake	$28,500	$13,245
Asilomar	12,250	10,400
*Carmel River	80,000	45,500
*Carmel River	99,062	37,000
Donner Memorial (stipulated judgment)	28,500	25,000
Columbia (stipulated judgment)	12,000	12,000
	$260,312	$143,145

Awards 82 percent over low appraisals
One project at low appraisal

* These awards were made prior to 1954 while Monterey County was assigned to the Sacramento acquisition unit.

EXHIBIT I

ACQUISITIONS BY THE DIVISION OF BEACHES AND PARKS

July 1, 1952 Through December 31, 1957

All Acquisitions Except Gift Deed Land

	North	*South*
Total price paid	$7,451,832	$5,275,265
Total of low appraisal	6,552,435	5,228,512
Difference	$899,397	$46,753
Percent paid above low appraisal	13.73%	89%

All Acquisitions Except Gift Deed Lands and Lands Acquired Through Condemnation

	North	*South*
Total price paid	$7,191,520	$5,193,230
Total of low appraisal	6,409,290	5,160,025
Difference	$782,230	$33,205
Percent paid above low appraisal	12.4%	64%

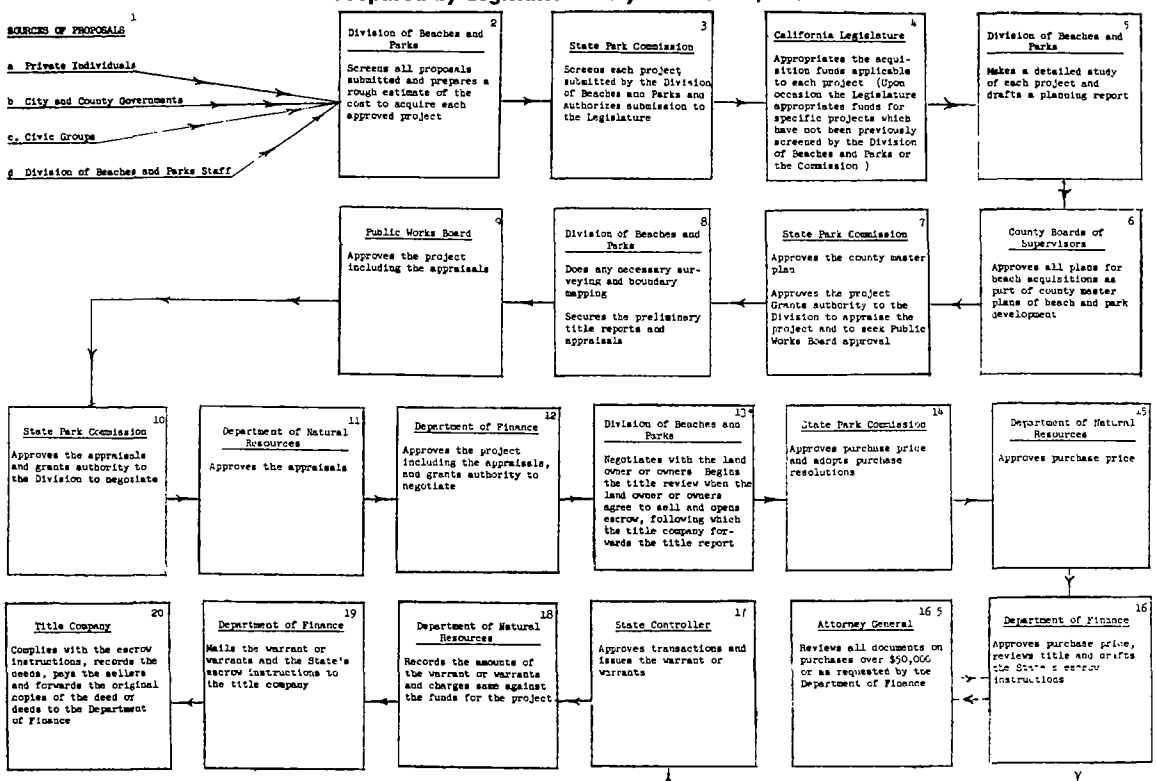
All Acquisitions Through Condemnation Including Stipulated Judgments

	North	*South*
Total of awards and stipulations	$260,312	$82,035
Total of low appraisal	144,145	68,487
Difference	$117,167	$13,548
Percent paid above low appraisal	82%	20%

CHART I

THE PROCESS OF REAL PROPERTY ACQUISITION FOR STATE BEACHES AND PARKS IN CALIFORNIA

Prepared by Legislative Analyst March 25, 1958



* Condemnation proceedings are initiated at this step if negotiations with the seller fail to reach a price the State considers reasonable, or if condemnation is necessary in order to clear the title.

APPENDIX C

STATE PARK SYSTEM FINANCING

Prepared by Legislative Analyst
November 24, 1958

State Park System financing began with a six-million dollar state bond issue approved by the Legislature in Chapter 765, Statutes of 1927 and validated by a constitutional amendment which was adopted by vote of the people in 1928.

The matching principle was initiated with this bond issue whereby the State acquired lands for the system providing the local political entity concerned or private interests would match the State's investment either with cash or land or a combination thereof.

By Chapter 5, Statutes of 1938, Ex Session the Legislature provided oil royalty moneys as a source of income to the State Park Commission. According to the initial distribution of the available balances of oil royalty moneys, 70 percent was diverted to the General Fund and 30 percent to beaches and parks In 1943 this formula was reversed providing 30 percent of the remaining balance to the General Fund, 23⅓ percent to the State Beach Fund and 46⅔ percent to the State Park Fund.

In 1945, Chapter 1422 was enacted whereby General Fund moneys in the amount of $10,000,000 was made available for beach acquisition and $5,000,000 for park acquisition on a matching basis.

Beginning in 1947, tideland oil revenues were impounded by the Federal Government, and these funds were not released until 1954. The released funds were distributed according to the existing formula.

Chapter 2367, Statutes of 1957 provided a $12,000,000 ceiling on transfers of tideland oil moneys to the Division of Beaches and Parks and a $3,000,000 ceiling to the General Fund with any remaining balance of tideland oil moneys to be transferred to the Investment Fund.

The State Beach Fund and the State Park Fund were combined into a State Beach and Park Fund by the provisions of Chapter 2127, Statutes of 1957 which thereby discontinued the previous ⅓, ⅔ distribution. Except for certain rare instances of legislative appropriation for specific projects, the 1956 Budget Act marked the end of the matching principle. In the act and in all subsequent appropriations for additions to the park system there is no provision for matching state expenditures with private or local government funds or lands.

Out of all moneys accruing to the State Beach and Park Fund, the division's acquisition, development, and support programs are defrayed. At the present rate of accrual of funds, in considering existing appropriations and projected development and operating expenses through the 1960-61 Fiscal Year, it appears that the division will need an additional approximately $16,000,000 to achieve its planned objectives if all projects approved by the Legislature and the State Park Commis-

Statement of Accrual to and Expenditures from the Funds of the Division of Beaches and Parks by Fiscal Year

(1945-46 through 1958-59 estimated)

Fiscal Year	Income				Outgo		
	From State Lands Act Fund	From General Fund and Capital Outlay and Savings Fund	Other income	Total income	Expenditures for support	Expenditures for capital outlay	Total expenditures
1945-46	$2,555,000	a$15,000,000	$98,092	$17,653,092	$797,006	$369,281	$1,166,287
1946-47	3,745,000	13,920	114,815	3,873,735	1,199,220	2,638,307	3,837,527
1947-48	1,388,000	----------	234,063	1,622,063	1,584,373	4,373,123	5,957,496
1948-49	600,000	4,425,372	240,000	5,265,372	1,250,054	4,973,623	6,223,677
1949-50	396,990	1,869,200	252,240	2,518,430	745,493	2,268,466	3,013,959
1950-51	561 989	1,051,219	275,714	1,888,922	1,821,657	2,319,908	4,141,565
1951-52	677,943	1,205,748	384,155	2,267,846	1,543,734	1,609,524	3,153,263
1952-53	600,890	4,306,337	366,305	5,273,532	595,678	2,555,124	3,150,802
1953-54	277,262	3,847,336	428,273	4,552,871	690,818	4,509,081	5,199,399
1954-55b	35,231,976	2,785,559	649,413	38,666,948	1,331,319	714,524	2,045,843
1955-56	10,795,458	----------	654,146	11,449,604	c7,368,340	3,684,665	11,053,005
1956-57	3,911,541	----------	749,570	4 661,111	d5,130,524	7,305,065	12,435,589
1957-58	8,050,000	----------	1,215,344	9,265,344	e8,049,845	7,138,621	15,188,466
1958-59 est.	12,000,000	----------	f8,708,308	20,708,308	7,450,298	15,463,400	22,913,698
Totals	$79,542,849	$34,504,691	$13,716,292*	$127,733,832	$39,557,859	$59,922,712	$99,480,571

* The Controller's office is holding $1,547,295.40 of interest on beaches and parks money which will be transferred to the division if the Board of Control so rules

a From General Fund via Chapter 1422, Statutes of 1945

b $16,067,767 returned to General Fund—represents amount expended or encumbered from General Fund advances against impounded tideland oil royalties

c $3,567,335 unencumbered balance of Chapter 1422, Statutes of 1945, money to General Fund and $59,782 to California Olympic Commission

d $121,363 to California Olympic Commission and $19,786 to Sixth District Agricultural Fair Associaton

e $1,271,810 to California Olympic Commission and $714,977 to Sixth District Agricultural Fair Association

f $8,088,495 from Investment Fund

sion are consummated and if development is to continue at the existing rate of approximately $3,000,000 per year.

A factor which has contributed to the deficit was the transfer of funds in the amount of $7,990,000 from beaches and parks to the Olympics, $2,000,000 to Playa del Rey and $2,500,000 to the Sixth District Agricultural Fair Association for parking facilities.

The appendices to this report give a comprehensive summation of the status of all beach and park acquisition projects which involve legislative appropriations from the Fiscal Years 1945-46 through 1958-59. Appendix I deals with beach projects, listed alphabetically. Appendix II deals with park projects listed alphabetically. While Appendix III deals with both beach and park acquisitions which are authorized by current effective legislative appropriations only. These projects are listed according to the order of their priority number in the State Park System Master Plan. Those projects which are not a part of this plan but which have been authorized by current legislative appropriations, are included at the end of the priority listings.

ROADSIDE REST PROGRAM IN CALIFORNIA

Chapter 1, Statutes of 1956, item 405 appropriated $450,000 for the construction of roadside rests in California. Both construction costs and support costs of personnel responsible for this program within the Division of Beaches and Parks are defrayed from this item.

Of the moneys allocated and committed, approximately $79,367 has been expended and earmarked for construction and $121,523 for support, leaving an unallocated balance of $249,110 of the original $450,000 appropriation for roadside rests.

The Legislature levied a temporary moratorium on the roadside rest program in its 1958 Budget Session in order to secure an appraisal of the existing and projected conditions. Only limited work has been carried on since the session to complete rests which were under construction at the time and to develop rests which could be maintained within funds available for that purpose through the provisions of a resolution passed by the Legislature.

The accompanying schedule shows the location of each site, the land use conditions, the contractor, the facilities, the total cost of each, and the maintenance source and cost where such is in effect.

Contract and total cost of construction variations are primarily explained by convenience of paving equipment and materials since ingress and egress roads and parking areas on the average absorb roughly two-thirds of the total cost of the rest area. In two instances, no paving was required inasmuch as the sites were located where sufficient paving was in existence.

Maintenance cost variations are entirely a product of rest locations and administrative decisions of the Divisions of Beaches and Parks. The desert sites cost approximately $3,000 each per annum to maintain by division personnel where contracting for this service might well have reduced this cost Locating for convenient access by Forestry crews reduces the costs to approximately $500 each per year. The only contract existing with a private party for maintenance is in the amount of $1,200 per year for the Beckworth Pass rest.

Therefore, it is obvious that both location and timing affect construction costs, and location can affect maintenance costs.

Division of Highways Participation

The Division of Highways has become involved in the roadside rest program in two ways. First, the rests are to be placed primarily on highway rights-of-way and the Division of Highways is the agency which must contract to construct the ingress, egress, and parking areas. Secondly, the Division of Highways was required by the Federal Government to propose the number of "Safety Rest Areas" to be included in the Interstate Highway System. They have estimated that 41 such rests would be the requirement.

In the first instance, the division has constructed the ingress, egress, and parking areas under contract with the Division of Beaches and Parks Such development has proven to be the major portion of the total costs of the roadside rests over which the Division of Beaches and Parks has little control inasmuch as the standards of roads and parking development are dictated by the Division of Highways.

In regard to the "Safety Rest Areas" to be developed in conjunction with the Interstate Highway System the Division of Highways indicates that such rests are of a very low priority and may not be constructed. If constructed, the division estimates that they will cost approximately $100,000 a pair (one on each side of the freeway) Under the existing financing schedule, the Federal Government would defray over 90 percent of the construction cost.

The Division of Highways has indicated that it feels all maintenance of both roadside rests and safety rest areas should be the responsibility of the Division of Beaches and Parks, even though, in the latter case, the safety rest areas are a part of the overall planning of the interstate road system.

Following is a statement of policy from "A Policy on Safety Rest Areas for the National System of Interstate and Defense Highways"; (underlining added) adopted by the American Association of State Highway Officials.

> "*Kinds of Areas*
>
> "Rest areas are to be provided on interstate highways as a safety measure. Safety rest areas are off-roadway spaces with provisions for emergency stopping and resting by motorists for short periods. They have freeway-type entrance and exit connections, parking areas, benches and tables and *may* have toilets and water supply, where proper maintenance and supervision are assured. They may be designed for short-time picnic use in addition to parking of vehicles for short periods. They are not to be planned for use as local parks.——"

This statement would indicate that the "Safety Rest Areas" are of importance to the freeway system and it further indicates that in establishing them, some types of facilities are mandatory and others are not.

Certain officials of the Division of Highways have confirmed the fact that, legally, Motor Vehicles Fuel Tax moneys could be used to maintain rest areas. Eventually, it would be desirable to vest the primary responsibility for maintenance of the rests in the Division of Highways, however, at this time, it is proposed that the Division of Beaches and Parks should contract with the Division of Highways for maintenance. Under this contract highways would be responsible for performing maintenance or subcontracting for its performance, depending on the most economical means, with the cost of such maintenance to be defrayed from the State Beach and Park Fund. This method would serve to standardize the approach to maintenance by the agency which can more logically do the job.

Furthermore, it is recommended that the Division of Beaches and Parks schedule the development of future rests to be undertaken concurrently with necessary road construction and/or scheduled highway maintenance. This will require very close liaison between the two agencies but should help to considerably reduce construction costs.

San Bernardino has developed a master plan for the development of roadside rests within the county. The plan estimates an average cost, for developing each site, of $2,500, and also estimates that one man will be sufficient to perform the necessary maintenance required on five roadside rests. Certain conditions of location and spacing of state-developed rests would not necessarily parallel those proposed by San Bernardino County, and therefore, there will be certain disparities in cost estimates in comparing the two. However, the plan developed by San Bernardino County appears to be soundly conceived and logically proposed and certainly merits the serious consideration of the State.

VIIIth WINTER OLYMPIAD

The California Olympic Commission, established by Chapter 124, Statutes of 1955, is charged with the responsibility of administering all phases of the construction of the facilities for and the staging of the VIIIth Winter Olympiad The commission did not actually become effective until June 18, 1955 on which date the International Olympic Committee tentatively awarded the games to the United States to be held at Squaw Valley in California Chapter 124 also appropriated $1,000,000 for the use of the commission in exercising its responsibilities. The Legislature made subsequent appropriations by budget item 413, Budget Act of 1956 in the amount of $4,000,000 and by Chapter 1069, Statutes of 1957 of $2,990,000 for a total amount of $7,990,000 to construct permanent facilities for the staging of the games. All moneys appropriated by the State for the olympics to date have been made from the State Park Fund. It was not until the Budget Act appropriation of 1956 was approved that the International Olympic Committee formally designated Squaw Valley as the games site.

The United States National Olympic Committee, upon authorization of the International Olympic Committee appointed the "Organizing Committee, VIIIth Olympic Winter Games, Squaw Valley, California, U.S.A., 1960, Incorporated" to stage the games. The California Olympic Commission has negotiated a master contract with the organizing committee for this purpose.

The California Olympic Commission is responsible for negotiating all contracts for its capital outlay program and the organizing committee is responsible for making all other arrangements preliminary to and during the games.

Estimated Total Expenditures (through completion of games)
(Substantiated by attached schedule)

Organizing committee (including $3,500,000 federal funds)	$9,634,760
California Olympic Commission	5,820,240
	$15,455,000
(Plus estimated 7 percent increase in construction costs before completion of facilities)	373,000
Total estimated expenditure	$15,828,000

Although $7,990,000 was appropriated to the California Olympic Commission for construction of all the facilities in the valley, it will be noted that the commission anticipates an expenditure of only $5,820,240 for both its limited operating expenses and its capital outlay. This is due to the fact that the Federal Government is paying for the construction of the ice arena for which $2,200,000 had originally been allocated and the International Olympic Committee has permitted the commission to drop the bobsled event which was to cost approximately $700,000. Thus $2,900,000 was dropped from the original plan which would obligate only some $5,090,000 ($7,990,000 less $2,900,000). The difference between the $5,090,000 and $5,820,240 occurs primarily as a result of increased construction costs.

The difference between the $5,820,240 estimated to be expended directly by the commission and the $7,990,000 available to it, represents moneys turned over to the organizing committee as part of the contract payments due it.

Estimated Income

California appropriations	$7,990,000
U.S. appropriations	3,500,000
Nevada appropriations	500,000
Admission receipts	3,000,000
Concession receipts	166,100
Ski lift operation	16,000
Program receipts	85,000
Parking receipts	98,000
Participants' deposit	600,000
Television rights sale receipts	-0-
Total estimated income	$15,955,100

Both the California and U. S. appropriations are an assured source of income; on the basis of ticket requests, the admission receipts are fairly assured; the concession receipts, parking receipts and ski lift operation are based on estimated use both before and during the games; participants' deposits for lodging and transportation are based on estimated participation of foreign countries in the games, and, as outlined in our discussion of the Olympiad in the Analysis of the 1958-59 Budget as now contemplated, it appears that California will be subsidizing these services to approximately $452,000.

Nevada has appropriated $200,000 to the Nevada Olympic Commission which has not as yet been specifically allocated for any purpose. The additional $300,000 which the California Olympic Commission estimates will be forthcoming from Nevada is purely a conjecture at this time.

Although no estimate has been made of television rights sale receipts because negotiations are currently in progress, it has been advanced that such rights should approach $1,000,000, and if the television companies could be relieved of having to pay taxes, i.e if an applicable ruling can be secured from the United States that this coverage can be classed as a public service, then the income to the State could approach $2,000,000 from this source.

Therefore, it appears that the estimated income and appropriations might defray the proposed expenditures to be incurred in staging the games.

Prior to July 1, 1957, separate contracts for specific services were executed between the commission and the organizing committee. However, in June of 1957, a master agreement was executed between the commission and the organizing committee to cover the period of July 1, 1957, through June 30, 1960, which specifies the general and specific areas of responsibility to be covered by the organizing committee. The commission reviews the organizing committee's budget every six months and agrees to a monthly incremental payment of that budget Any unforeseen developments which require additional payments to the committee are executed as separate appendices to the master agreement.

The major land problems in the Squaw Valley area have been resolved with the final settlement with Wayne Poulsen in the amount of $88,427 for the purchase of some 41 acres and a short-term lease on 134 acres for snow compaction parking Of the $88,427 settlement with Mr. Poulsen and the Squaw Valley Development and Cattle Company, $84,727 represents the amount paid for 41 acres and $3,700 is the amount to be paid for a temporary lease for 134 acres for a snow compaction

parking area, terminating at the close of the games. Also, lands have been secured from the U. S. Forest Service under a 30-year leasing arrangement whereby the State will pay $1,000 a year for 1,000 acres.

There are two reservations specified by the Federal Government relative to its construction of the ice pavilion and ceremonial arena for which a federal appropriation of $3,500,000 was made. One is that the arena will remain the property of the Federal Government and the other is that the State will pay the Federal Government a percentage of the net revenues accruing through the use of all the facilities under state control on the permitted land. The percentage to be paid will be based upon the ratio of federal construction moneys to the total investment in the Squaw Valley games facilities on the permitted land. There is no provision which would limit the Federal Government's income from this source to the extent of its investment.

A leasing arrangement between the State and Mr. Cushing has now been consummated whereby Cushing leases the two ski lifts belonging to the State which are to be on land leased from the United States by the State. This lease is for 10 years, extending for eight years into the period of jurisdiction by the State Park Commission.

The Division of Beaches and Parks will assume operation of the Olympic area immediately at the close of the staging of the games as specified under existing legislation.

The division is preparing a proposal for postgames operation of the Olympics area. For that part of the 1959-60 Fiscal Year following the close of the Olympiad the division plans a minimum "holding" operation consisting primarily of grounds maintenance and traffic control.

The division has estimated the following as minimum costs to make the Olympic facilities operable as a winter sport area:

1. Parking areas and road changes	$300,000
Since estimates of costs were made according to the December 14, 1956, plans of the Olympics, this item may be adjusted downward. However, since the snow compaction parking for the Olympics is on short-term lease property this figure may even be conservative.	
2. Service area and repair facilities	200,000
This necessary adjunct for storage and repair of equipment needed in the operation of a plant of this magnitude was not included in the plans or estimates of construction.	
3. Public restroom buildings	105,000
Chemical restrooms are to be provided during the games in many locations and the division feels it necessary to install more permanent locations to accommodate year-round visitations.	
4. Additional warming huts at ski areas	120,000
The division feels that the limited facilities designed merely to accommodate a few competitors at a time must be expanded to take care of the mass of winter sports enthusiasts expected.	
5. Expanding ski slopes and runs for public use including additional lift and tows	200,000
The additional lift will be needed for novices and runs expanded to accommodate more people at a given time.	
6. Removal of temporary facilities and structures	50,000
Total additional cost	$975,000

Because the structures are generally quite large, potential maintenance costs could be monumental. The sewage disposal and water systems are quite extensive and represent a sizable operation in themselves. The flood control basin will need periodic dredging and the channel of Squaw Creek will require intensive maintenance. No maintenance costs have been estimated, nor can they be without some experience history.

Personnel of California Olympic Commission and Olympic Organizing Committee

Commission Members Appointed by the Governor

Charles R. Blyth, Chairman. President, Blyth & Co., Investment Bankers, Russ Bldg, San Francisco.
A. Andrew Hauk, Vice Chairman, Attorney at Law, Union Oil Center, Los Angeles.
Walter M. Barrett, Publisher, Sierra Sun, Truckee.
Allen D. Christensen, President, Utah Construction Company, 100 Bush St., San Francisco.
S. W. Royce, President, The Huntington-Sheraton Hotel, Pasadena.

Organizing Committee Members Appointed by the United States Olympic Committee

Prentis Cobb Hale, President, 867 Market St., San Francisco.
John Jewett Garland, Honorary Chairman, 1200 Garland Bldg., 117 W. 9th St, Los Angeles.
Joseph A. Moore, Jr., Vice President, 351 California St., San Francisco.
Henry Maschal, Secretary-Treasurer, 235 Montgomery St., San Francisco.
Anderson Borthwick, 1007 Fifth St., San Diego.
Alf E. Brandin, Business Manager, Stanford University, Palo Alto.
Kenneth L. Brown, 1011 Mariposa Ave., Berkeley 7.
Edward W. Carter, 401 S. Broadway, Los Angeles.
William J. Cashill, 206 N. Virginia St, Reno, Nev.
Dr. Albert P. de Ferrari, 490 Post St, San Francisco.
Robert Di Giorgio, 350 Sansome St., San Francisco.
Richard C. Ham, Rm. 1112, 200 Bush St, San Francisco.
Frank G. Hathaway, Los Angeles Athletic Club, Los Angeles
William M. Henry, 2480 16th St, NW., Washington, D C
Robert C. Johnstone, 2360 Newport St, Denver, Colo.
A. A. Jones, 955 W. Santa Inez, Hillsborough.
Garrett McEnerney II, Hobart Bldg, San Francisco.
Roy J. Mikkelsen, Auburn Lumber Co, Auburn.
Robert Watt Miller, 600 California St, San Francisco.
J. Stanley Mullin, 458 S. Spring St, Los Angeles.
Henry T. Mudd, 523 W. 6th St., Los Angeles 13.
Edward J. Questa, First National Bank, Reno, Nev.
Francis R. Smith, P. O. Box 1408, Reno, Nev.
Edward R Valentine, Rm 1201, 609 S. Grand Ave, Los Angeles 17
George Wingfield, Jr., 206 N. Virginia St., Reno, Nev.

Neither the Olympic Commission members nor the Organizing Committee members receive remuneration except per diem when on Olympics' business.

California Olympic Commission

FUNDS EXPENDED, ENCUMBERED AND AVAILABLE

September 26, 1958

1. Total funds made available:		
State of California Appropriations	$7,990,000	
Reimbursement from Organizing Committee of funds advanced for design and construction of Olympic arena	332,939	
Lift rental payments from Squaw Valley Development Company	1,473	
		$8,324,412
2. Total expenditures to date	3,242,449	
3. Additional amounts contracted for or otherwise encumbered to date	4,108,109	
		7,350,558
4. Present unencumbered balance		973,554
5. Proposed expenditures at this commission meeting:		
Agenda Item 4: Henrikson Lease	2	
Agenda Item 5: Lease with Emmeline Gray and Tahoe Company Inc.	5,200	
Agenda Item 7: Change orders to construction contracts	174,156	179,358
		794,196
6. Proposed release of encumbered funds at this meeting:		
Agenda Item 8: Assignment to Organizing Committee York Refrigeration Contract		269,198
7. Remaining unencumbered balance if proposed expenditures and assignment authorized		$1,063,394

STATUS OF CONSTRUCTION

(Based on payments to contractors as of October 1, 1958)

Unit	*General construction*	*Percent completed*
A	Site clearance, grading, flood control	88.0
B	Roads and parking	10.0
D	Water—domestic	67 5
F	Bridges	48.5
H	Administration Building	71.0
I	Athletes' housing	78.5
J	Athletes' center	36.5
K	Press building	53.0
L	Reception center	51.0
M	Spectator centers	2.5
N	Maintenance building	82.0
P	Ski jumps	72.5
Q	(Service building	87.5
	(Arena and rinks	26.0
	Sewage facilities	
C(A)	Sewage	54.7
R	Public rest rooms	83.6
V	Squaw Valley entrance road	75.0

CONSTRUCTION BY ORGANIZING COMMITTEE ON FORCE ACCOUNT

I. Papoose Park

Ladies' grand slalom trail	Complete
Communication cable	75%
Ladies' slalom	95%
Timer's house	90%
Ski jump	85%
Ski jump judges' tower	50%

II. KT-22

Ladies' downhill trail	Complete
Communication cable layout	90%
Men's grand slalom trail	Complete
Communication cable layout	90%
Men's slalom trail	Complete
Communication cable layout	90%
Timer's house	90%

III. Squaw Peak

Planning and layout men's downhill	95%
Communication cable layout	90%
Timer's house	90%
Snow control program (adjust to conditions)	10%
Snow vehicle shelter	70%
Warming house	80%
Starting facility	85%
Snow control fences	Complete

IV. McKinney Creek

20 KM Biathlon (adjust following trials if necessary)	Complete
Practice shooting range Deer Park	Complete
15 KM Special and combined cross-country as well as 30 KM cross-country	Complete
Start and finish facilities	Complete
Rights-of-way for cross-country	Cleared

Lifts

Papoose (commission)	Complete
KT 22 (deadline November 15, 1958) (Cushing)	85%
Squaw Peak No. 2 (deadline September 15, 1959) (commission)	On schedule
Roads to lifts (commission)	Complete

BUDGET SUMMARY

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec. 31, 1959	June 30, 1960
I. Organizing Committee Expenditures						
A. Capital						
1. Federal funds	$3,683,210	$230,420	$2,219,290	$338,330	$792,560	$102,610
2. State funds	847,200	532,470	179,400	60,445	63,395	11,490
	$4,530,410	$762,890	$2,398,690	$398,775	$855,955	$114,100
B. Operating state funds	5,104,350	417,930	543,020	598,050	1,357,140	2,188,210
Organizing committee Total	$9,634,760	$1,180,820	$2,941,710	$996,825	$2,213,095	$2,302,310
II. Commission Expenditures						
A. Capital	$5,506,620	$944,100	$2,615,370	$662,240	$1,274,950	$9,960
B. Operating	313,620	182,820	32,200	31,200	33,800	33,600
Commission total	$5,820,240	$1,126,920	$2,647,570	$693,440	$1,308,750	$43,560
III. Total Expenditures	$15,455,000	$2,307,740	$5,589,280	$1,690,265	$3,521,845	$2,345,870
IV. Receipts	$15,955,100	$8,190,000	$2,850,000	$1,708,000	$2,150,000	$1,057,100
V. Balance	$500,100	+$5,882,260	−$2,739,280	+$17,735	−$1,371,845	−$1,288,770
Cumulative balance	$500,100	$5,882,260	$3,142,980	$3,160,715	$1,788,870	$500,100

ORGANIZING COMMITTEE EXPENDITURES

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec. 31, 1959	June 30, 1960
CAPITAL—FEDERAL FUNDS						
Arena	$2,411,000		$1,687,700	$216,990	$506,310	
Arena bleacher seats	324,000			50,000	200,000	$74,000
Arena piles	83,500		83,500			
Arena service buildings	62,200		62,200			
Arena surcharge removal	34,230		34,230			
Refrigeration	269,200		230,000	29,000		10,200
Construction contingency	165,040		83,910	17,340	52,250	11,540
Architect-Engineer fees	285,115	$214,705	24,000	16,000	26,000	4,410
Preliminary tests and surveys	5,940	5,940				
Construction services	42,985	9,775	13,750	9,000	8,000	2,460
Total	$3,683,210	$230,420	$2,219,290	$338,330	$792,560	$102,610

ORGANIZING COMMITTEE EXPENDITURES

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec. 31, 1959	June 30, 1960
CAPITAL—STATE FUNDS						
a. Construction fees						
Architect fees	$467,920	$332,170	$65,520	$40,445	$20,795	$8,990
Preliminary tests and surveys	89,160	72,660	6,500	10,000		
Construction services	59,370	20,520	19,350	9,000	8,000	2,500
Land acquisition fees	25,160	23,160	2,000			
Total—Construction fees	$641,610	$448,510	$93,370	$59,445	$28,795	$11,490
b. Courses and Facilities						
Alpine	$89,760	$40,970	$44,080		$4,710	
Snow Safety	4,620		2,370		2,250	
Cross-Country	56,730	22,060	14,580	1,000	19,090	
Biathlon	32,310	4,100	19,660		8,550	
Jumping	8,060	2,720	5,340			
Speed Skating	8,090	8,090				
Figure Skating	1,330	1,330				
Bob sled run	2,970	2,970				
Papoose lift	1,720	1,720				
Total—Courses and Facilities	$205,590	$83,960	$86,030	$1,000	$34,600	
Total—Capital, State Funds	$847,200	$532,470	$179,400	$60,445	$63,395	$11,490

ORGANIZING COMMITTEE EXPENDITURES

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec 31, 1959	June 30, 1960
Operating—State Funds						
Administrative	$1,936,940	----------	$391,400	$299,500	$920,360	$325,680
Housing	10,710	----------	6,950	1,500	1,400	860
Pageantry	44,050	----------	----------	1,950	26,330	15,770
Personnel	4,460	----------	760	1,320	1,320	1,060
Plant superintendent	614,510	----------	66,760	126,720	184,830	236,200
Protocol	71,030	----------	----------	3,090	2,470	65,470
Public relations	262,860	----------	60,780	46,770	61,020	104,290
Sports technical	325,490	----------	11,240	81,230	53,080	179,940
Ticket	164,800	----------	5,970	2,340	72,550	83,940
Transportation	1,052,620	----------	9,160	33,630	26,900	982,930
Village	198,950	----------	----------	----------	6,880	192,070
Otherwise classified	417,930	$417,930	----------	----------	----------	----------
Total, operating state funds	$5,104,350	$417,930	$543,020	$598,050	$1,357,140	$2,188,210

COMMISSION EXPENDITURES

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec 31, 1959	June 30, 1960
CAPITAL						
Papoose lift	$155,900	$128,700	$27,200	----------	----------	----------
Phase I contract	2,258,370	535,000	1,020,070	$300,000	$403,300	----------
Spectator centers	572,000	----------	200,000	100,000	272,000	----------
Phase II contract	649,500	100,000	549,500	----------	----------	----------
Phase IV contract	529,000	50,000	479,000	----------	----------	----------
Road and parking	450,000	----------	200,000	----------	250,000	----------
Miscellaneous estimate	466,650	----------	----------	200,000	266,650	----------
Construction contingency	288,000	----------	134,600	61,840	82,000	$9,560
Land acquisition	97,200	90,400	5,000	400	1,000	400
Purchase of buildings	40,000	40,000	----------	----------	----------	----------
Total	$5,506,620	$944,100	$2,615,370	$662,240	$1,274,950	$9,960

COMMISSION EXPENDITURES

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec. 1958	Anticipated budget six months ended		
				June 30, 1959	Dec 31, 1959	June 30, 1960
Operating Expenditures						
Salaries	$123,220	$54,720	$16,000	$16,500	$18,000	$18,000
Office rent	1,940	1,940	----------	----------	----------	----------
Travel	20,870	11,070	2,400	2,400	2,500	2,500
Legal fees	14,940	11,940	1,500	500	500	500
Accounting fees	9,915	4,315	1,200	1,200	1,200	2,000
Office supplies and expenses	10,510	2,010	1,500	2,000	3,000	2,000
Telephone and telegraph	5,290	2,290	750	750	750	750
Postage	1,220	620	150	150	150	150
Furniture and fixtures	1,480	680	200	200	200	200
Architects-engineers consultation fees	113,225	83,225	7,500	7,500	7,500	7,500
Appraisal reports	7,300	7,300	----------	----------	----------	----------
Title reports and insurance	3,710	2,710	1,000	----------	----------	----------
Total	$313,620	$182,820	$32,200	$31,200	$33,800	$33,600

ANTICIPATED RECEIPTS

July 1, 1958

	Total	Incurred and estimated through June 30, 1958	Current six months July-Dec 1958	Anticipated budget six months ended		
				June 30, 1959	Dec. 31, 1959	June 30, 1960
California appropriations	$7,990,000	$7,990,000				
Nevada appropriations	500,000	200,000			$300,000	
U S appropriations	3,500,000		$2,550 000	$400,000	550,000	
Admission receipts	3,000,000		300,000	1,300,000	1,300,000	$100,000
Concession receipts	166,100					166,100
Parking receipts	98,000					98,000
Program receipts	85,000					85,000
Ski lift operation	16,000			8,000		8,000
Participants deposit	600,000					600,000
Television rights						
Total	$15,955,100	$8,190,000	$2,850,000	$1,708,000	$2,150,000	$1,057,100

Appendix I

STATUS REPORT ON STATE BEACH PARKS ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park projects and units	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1951	Asilomar Beach State Park										
	Ch. 1422 of '45 / B A. of '48, Item 257	NI	NI	$381,392	x	x	NR	x	$763,035	----------	Gift land
1950	Avila Beach State Park										
	Ch. 1422 of '45	----------	----------	38,000	x	x	NR	x	156,747	----------	Gift
	(*See Pismo, Avila, Cayucos, Cambria Beach)										
1950	Bakers Beach State Park	----------	----------	----------	x	x	----------	x	23,750	----------	Gift land
	B A of '56, Item 400 1	85	(qq)	30,000	Partial	----------	----------	----------	----------	$30,000	D57-D58
1957	Benicia Beach State Park										
	B A of '56, Item 400 1	38	(p)	275,000	x	x	x	x	136,782	138,218	Negotiating and condemnation
NYA	Bolsa Chica Beach State Park										
	B A of '56, Item 400 1	22	(j)	1,000,000	x	x	x	x	12,000	988,000	Negotiating
1949	Cardiff Beach State Park										
	Ch 1422 of '45	NI	NI	8,425	x	x	NR	x	18,539	----------	Gift land
1953	Carmel River Beach State Park										
	Ch 1422 of '45 / B A of '48	NI	NI	151,007	x	x	NR	x	303,713	----------	Gift land
1931	Carpinteria Beach State Park										
	Ch 765 of '27 / Ch. 1422 of '45	----------	----------	165,035	x	x	NR	x	272,060	----------	
	B A of '56, Item 400 1	55	(bb)	300,000	x	x	x	x	202,250	97,750	Negotiating and condemnation
	Cash gift 7/1/56	----------	----------	----------	----------	----------	----------	----------	----------	1,712	
1953	Carrillo Beach State Park										
	Ch. 1422 of '45	NI	NI	400,000	x	x	NR	x	400,000	----------	

1947	Corona Del Mar										
	Ch. 1422 of '45										
	Ch 1470 of '45										
	Ch. 321 of '47			377,711		x	NR	x	757,014		Completed
	Ch 700 of '49										
	Ch 23 of '48										
	B A of '56, Item 400 1	52	(y)	130,000	x	x	x	x	130,000		Completed
NYA	Del Monte Beach State Park										
	B A of '56, Item 400 1	46	(v)	250,000	x	x	x	x		250,000	D-57, Negotiating
1947	Dockweiler										
	Ch 1422 of '45	NI	NI	983,591	x	x	NR	x	1,887,765		Gift land
1931	Doheny Beach State Park										
	Ch 944 of '41			11,525	x	x	NR	x			
	Ch 23 of '48				x	x	NR	x	115,525		Gift land
	B A of '56, Item 400 1	11	(d)	350,000	x	x	x	x	350,000		Completed
1931	Dry Lagoon Beach State Park										
	Ch 765 of '27			33,752	x	x	NR		40,204		
	B A of '56, Item 400 1	100	(xx)	75,000	x	x	Before PWB Partial	Partial	1,000	74,000	
NYA	Elwood										
	B A of '56, Item 400 1	NI	(bbb)	120,000	Partial					120,000	D57-D58
NYA	Francis—Dunes										
	B A. of '56, Item 400 1	73	(bb)	450,000	x	x	x	x	260,531	189,469	Negotiating and condemnation
NYA	Hueneme										
	B A of '56, Item 400.1	5	(a)	461,000	x	Disapproved		x	7,200	453,800	Being replanned, D-58
1942	Huntington										
	Ch 944 of '41										
	Ch 1497 of '45			407,875	x	x	NR	x	407,875		
	B A of '56, Item 400 1	99	(ww)	300,000	x	x	x	x	5,000	295,000	
NYA	Imperial Beach State Park										
	B.A of '56, Item 400 1	13	(e)	$650,000						$650,000	D57-D58
1949	La Costa Beach State Park										
	Ch 486 of '47	NI	NI	39,344	x	x	NR	x	39,344		
NYA	Lime Kiln Creek										
	B A of '56, Item 400 1	103	(aaa)	150,000	Partial					150,000	D57-D58
NYA	Little Sur River										
	B A. of '56, Item 400 1	53	(z)	150,000	Partial					150,000	D57-D58
1949	MacKerricher Beach State Park										
	Ch 1422 of '45			44,296	x	x	NR	x	76,592		Gift
	B.A. of '56, Item 400 1	94	(ss)	45,000	x	x		Assigned	500	44,500	

Appendix I—Continued

STATUS REPORT ON STATE BEACH PARKS ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park projects and units	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1951	Malibu Lagoon										
	Ch 1422 of '45			$205,600	x	x	NR	x	$205,600		
	B A of '56, Item 400 1	NI	(fff)	160,000	Partial					$160,000	D58
1955	Manchester Beach State Park										
	Ch 1422 of '45			1,307	x	x	NR	x	2,900		Gift
	B A of '56, Item 400 1	70	(kk)	130,000	x	x		Authorized		130,000	D58
1931	Manhattan Beach State Park										
	Ch 765 of '27 / Ch 1422 of '45			626,799	x	x	NR	x	1,270,152		
	B A of '56, Item 400 1	21	(i)	175,000	x	x		Partial	5,114	169,886	Gift land
1948	Manresa Beach State Park										
	Ch 1422 of '45			83,850	x	x	NR	x	120,000		Gift land
	B A. of '56, Item 400.1	101	(yy)	50,000	Partial					50,000	
NYA	Mendocino City Beach										
	B A of '56, Item 400 1	40	(r)	75,000	x					75,000	D57-D58
NYA	Mira Monte	80	(oo)	75,000				Not Authorized		75,000	Condemnation
NYA	Montara										
	B A of '56, Item 400 1	17	(h)	125,000	x	x	x	x	155	124,845	Condemnation one parcel
1949	Moonlight Beach State Park										
	Ch 1422 of '45			16,125	x	x	NR	x	63,500		Gift
	B A. of '56, Item 400 1	102	(zz)	100,000	x	x	x ($85,000)	x	3,800	96,200	Negotiating
1932	Morro Strand Beach State Park										
	Ch 765 of '27			31,359	x	x	NR	x	16,359		Gift land
	B A of '56, Item 400 1	25	(l)	12,000	x	x		x		12,000	
1933	Natural Bridges Beach State Park										
	Ch 765 of '27 / Ch 1427 of '45			47,000	x	x	NR	x	79,500		Gift
	B A of '56, Item 400 1	65	(n)	90,000	x	x	x (85,000 only)	x	29,130	60,570	Negotiating

1933	New Brighton Beach State Park										
	Ch 765 of '27			56,237	x	x	NR	x	152,814		
	Ch. 179 of '47			60,000	x	x	(48,000) Approved	x	900	59,100	Negotiating
	B.A of '56, Item 100 1	98	(vv)								
NYA	Oso Flaco Lake Beach State Park										
	B.A of '56, Item 400.1	95	(tt)	200,000		x				200,000	D58
NYA	Palos Verdes Beach Access Ways										
	B A of '56, Item 100 1	NI	(ggg)	100,000	x					100,000	Withdrawn by County of Los Angeles D57-D58
NYA	Pebble Beach State Park										
	B A. of '56, Item 400 1	29	(m)	55,275	Partial					55,275	D57-D58
1947	Pelican Beach State Park										
	Ch 1432 of '45	NI	NI	7,725	x	x	NR	x	7,725		
NYA	Pescadero Beach State Park										
	B A of '56, Item 100 1	64	(hh)	75,000	x	x		x	2,500	72,500	
1934	Pismo Beach State Park										
	Ch. 765 of '27			177,680	x	x	NR	x	248,222		Gift
	Ch. 1422 of '45			350,000	x	x	x	x	71,567	278,433	Negotiating condemnation
	B A of '56, Item 400 1	32	(n)				(75,000 only)				
	Pismo Avilla Cayucos Cambria Beach										
	B A of '56, Item 400 1	44	(t)	190,000	x	x	x	x	184,650	5,350	Negotiating condemnation
NYA	Point Dume Beach State Park										
	B A of '56, Item 100 1	58	(cc)	800,000	x	x	x	x	472,322	325,678	Negotiating and under condemnation D58
1933	Point Lobos Reserve										
	Ch 765 of 27			613,752	x	x	NR	x	633,752		Cash gift
	B A of '56, Item 400 1	24	(o)	150,000	Partial					150,000	
1948	Point Sal Beach State Park										
	Ch 1422 of '45			512	x	x	NR	x	1,025		Gift
	B A of '56, Item 400 1	82	(pp)	100,000	Partial					100,000	D57-D58
	Pomponio Beach State Park										
	B A of '57, Item 400 1	60	(ee)	75,000	x	x		Authorized		75,000	D57
1948	Redondo Beach State Park										
	Ch 1422 of '45	NI	NI	35,000	x	x	x	x	719,639		Gift land
1950	Refugio Beach State Park										
	Ch. 1422 of '45	NI	NI	52,500	x	x	NR	x	105,000		Gift
	Royal Palms										
	B A of '57, Item 400 1	NI	(eee)	500,000	x	x	x	x		500,000	Condemnation
1933	Russian Gulch Beach State Park (Mendocino County)										
	Ch 765 of '27			31,000	x	x	NR	x	51,000		Gift
	Ch 486 of '47			50,000	x	x	x	x	26,160	23,840	Condemnation one parcel
	B A. of '56, Item 400 1	49	(w)								

Appendix I—Continued

STATUS REPORT ON STATE BEACH PARKS ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park projects and units	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
NYA	Russian Gulch Beach State Park (Sonoma County)										
	B A of '56, Item 400.1	54	(aa)	$90,000	x					$90,000	D57
NYA	Salinas River Beach State Park										
	B A of '56, Item 400.1	36	(o)	100,000	Partial					100,000	
1948	San Buenaventura Beach State Park										
	Ch. 1422 of '45 (Ch 1122 funds continued as of 7/1/56)	7	NI	108,388	x	x	NR	x	$586,188		Gift land
1931	San Clemente Beach State Park										
	Ch 765 of '27			54,425	x	x	NR	x			
	B A. of '55, Item 381			150,000	x	x	NR	x	404,425		Gift
	B A of '56, Item 400 1	10	(c)	200,000	x	x	x	x	16,825	183,175	No action (local dispute)
	Cond. action Div. of Highways			66,620						66,620	To be reappropriated before using. D57
1952	San Elijo Beach State Park										
	Ch 1422 of '45	NI	NI	53,005	x	x	NR	x	68,500		Gift
1956	San Francisco County Beaches										
	Ch 1422 of '45	NI	NI	111,000	x	x	NR	x	214,450		Gift land
1934	San Luis Obispo County Beaches Pismo, Avila, Cayucos, and Cambria Beach State Parks										
	Ch 765 of '27 / Ch. 1422 of '45			55,636	x	x	NR	x	271,425		Gift
	B A. of '56, Item 400.1	44	(t)	190,000			x	x	184,650	5,350	
1932	San Simeon Beach State Park										
	Ch. 765 of '27			52,819	x	x	NR	x	63,789		Gift land
	B.A. of '56, Item 400.1	123	(cce)	200,000	x	x		Partial	5,412	194,587	Awaiting survey
1948	Santa Monica Beach State Park										
	Ch. 1422 of '45			861,133	x	x	NR	x	2,460,876		Gift land
	B.A. of '56, Item 400 1	51	(x)	900,000	x	x	x	x	869,263	30,737	Negotiating and condemnation
	Ch. 2169 of '57			2,000,000	Partial		NR	x		2,000,000	

1931	Seacliff Beach State Park										
	Ch. 765 of '27										
	Ch 1422 of '45										
	Ch. 1479 of '45			272,100	x	x	NR	x	432,100		Gift land
	Ch. 478 of '47										
	Ch 23 of '48										
	B.A of '55, Item 381			75,000	x	x	NR	x	72,850	2,150	Balance reverted 7/1/58
	B A of '56, Item 400 1	62	(gg)	160,000	Partial					160,000	
1931	Silver Strand Beach State Park										
	Ch 765 of '27										
	Ch 1422 of '45			100,000	x	x	NR	x	206,600		Gift
	B A of '56, Item 400 1	96	(uu)	48,000	x	x		Authorized		48,000	Deferred
1934	Sonoma Coast Beach State Park										
	Ch 765 of '27			41,309	x	x	NR	x	41,309		
	B A of '56, Item 400 1	93	(rr)	350,000	x	x		Authorized		350,000	
1958	Steel Beach State Park										
	B A. of '56	77	(nn)	50,000	x	x	x	x	50,000		Completed
	Ex Order E58-23			51,095	x	x	x	x	51,095		Completed
1950	Stinson Beach State Park										
	Ch 1422 of '45			25,000	x	x	NR	x	107,020		Gift land
	B A. of '55, Item 381			70,000	x	x	NR	x	70,000		Under condemnation
	Ch 1422 of '45 (continued as of 7/1/56)			40,000	x	x	NR	x	40,000		
	B A of '56, Item 400 1	16	(g)	50,000	x	x	x	x	25	49,975	
	Marin County cash gift									2,551	
NYA	Sunset Beach State Park										
	B A. of '56, Item 400 1	61	(ff)	200,000	x	x	x	x	150,842	49,157	Negotiating
1958	Surfriders Beach State Park										
	Ch 1422 of '45 (continued as of 7/1/56)			90,000	x	x	NR	x	90,000		
	B A of '56, Item 400 1	42	(s)	175,000	Partial				19,209	155,791	
1955	Thornton Beach State Park				x	x	NR	x	108,000		Gift land
	B A of '56, Item 400 1	15	(f)	400,000						400,000	
1950	Tomales Bay										
	Ch 1422 of '45			130,814	x	x	NR	x	204,607		Gift
	B A of '56, Item 400 1	86	(mm)	100,000	x	x		x	1,557	98,443	
	Ch 2169 of '57			1,000,000	Partial					1,000,000	
1952	Torrey Pines Beach State Park										
	B A of 56, Item 400 1				x	x	NR	x	114,800		Gift land
		8	(b)	72,300	x	x	Approved	x	412	81,888	Negotiating
	Cash gift 7-1-56				x	x	Approved	x		4,694	Negotiating
1937	Trinidad Beach State Park										
	Ch 387 of '37	NI	NI		x	x	NR	x	2,000		Transferred from State Lands Div.
	Ch 2169 of '57			75,000						75,000	

Appendix I—Continued

STATUS REPORT ON STATE BEACH PARKS ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park projects and units	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1930	Van Damme Beach State Park										
	Ch 765 of '27 Ch 1422 of '45 Ch 1479 of '45	----------	----------	$58,275	x	x	NR	x	$110,759	----------	Gift land
	B A of '56, Item 400 1	39	(q)	19,500	x	x	x	x	19,220	$280	Completed balance transferred to savings
1930	Will Rogers Beach State Park										
	Ch 765 of '27 Ch 912 of '41 Ch 944 of '41 Ch 1422 of '45	----------	----------	2,095,646	x	x	NR	x	3,447,363	----------	Gift
1950	Zmudowski Beach State Park										
	Ch 1422 of '45	NI	NI	18,000	x	x	NR	x	43,000	----------	Gift
			Combination Acquisition and Development Projects								
	Historic Ships										
	B A of '56, Item 406	----------	----------	200,000	Underway	----------	x	----------	169,432	30,568	
	San Francisco Maritime State Historical Monument										
	B A of '56, Item 400 2	----------	----------	2,000,000	Underway	----------	----------	----------	----------	2,000,000	

* Comparison indicates there is no essential difference between the priority number assigned to projects in the 5-year plan and the order they appear in the budget item One significant difference is Bodie State Historical Monument which was not included in the Division of Beaches and Parks 5-year plan but was substituted by the Legislature for Emerald Bay—priority number 35—and given a position above Calaveras Big Trees which was priority number 37 All other projects added to the appropriations by the Legislature were appended to the end of the list of projects

NYA — Not yet required
B A. —Budget Act
NI —Not included
NR —Not required
GF —General Fund
f/action—Final action by Public Works Board withheld pending further study
D57 —In 1957 the staff of Beaches and Parks recommended that this project be deferred until after 1960
D58 —In 1958 the staff of Beaches and Parks recommended that this project be deferred until after 1960

Appendix II

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1950, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
NYA	Alabama Hills B A of '56, Item 400	78	(hh)	$50,000	x					$50,000	D57-D58
1958	Avenue of the Giants B A of '56, Item 400	1	(a)	600,000	x	x	x	x	$600,000		Completed
	Cash gift				x	x	x	x	600,000		
1933	Anza Borrego Desert Ch. 765 of '27			104,297	x				398,596		Gift U S Patent fees from bond funds
	B A of '56, Item 400	41	(u)	350,000	x	x	x	x	185,124	164,876	Negotiating
	Scripps Estate cash gift, 7-1-56									528	
1934	Armstrong Redwoods Ch 763 of '27 Ch. 23 of '48	NI	NI	15,825	x	x		x	85,825		Gift land
NYA	Benbow Lake B A. of '56, Item 400	106	(ww)	250,000	x	x	x	Partial	218,851	31,149	Negotiating
1951	Benicia State Capitol SHM	NI	NI		x	x	x	x			Gift land
1902	Big Basin Redwoods 1901 Park Act			148,916					534,063		Formerly Calif Redwood Park
	B A of '55, Item 382			175,000	Partial	x	NR	Partial	53,390	121,610	Balance reverted to G F 7-1-58
	B A of '56, Item 400	79	(u)	500,000	Partial	x	f/action	Partial		500,000	
NYA	Bodie SHM B A of '56, Item 100	NI	(s)	200,000	Partial					200,000	D57-D58

Appendix II—Continued

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1956	Butano										
	Ch 1422 of '45			$90,694	x	x	NR	x	$122,080		$31,386 cash gift
	B.A of '56, Item 400	3	(c)	1,000,000	x	x	x	x	936,123	$63,876	Condemning oil rights
1931	Calaveras Big Trees										
	Ch 765 of '27 / Ch 23 of '48			150,725	x	x	NR	x	463,374		Gift
	B A of '56, Item 400	37	(t)	40,000	x	x		Assigned		40,000	
	Cash gift 7-1-56									150	
1934	Castle Crags										
	Ch 767 of '27			36,822	x	x	NR	x	54,895		Gift land
	B A of '56, Item 400	56	(z)	150,000	x	x	x	Partial	3,370	146,693	Negotiating highways for exchange
1949	Clear Lake										
	Ch. 1422 of '45			29,000	x	x	NR	x	54,100		Gift land. Negotiating easements only
	B.A. of '56, Item 400	47	(w)	177,970	x	x	x		523	177,447	D57
NYA	Coe Ranch-Anderson Reservoir-Lexington Reservoir Park										
	B.A. of '56, Item 400	109	(zz)	150,000	x	Partial		Assigned	4,218	145,782	Gift deed being processed on Coe Ranch; Lexington disapproved D58
NYA	Colorado River-Picacho 4-S Ranch										
	B A of '56, Item 400	26	(m)	100,000	x	x		Authorized		100,000	U S Lands lease under negotiation
	B A of '55, Item 382			100,000	x	x		Authorized		100,000	Reverted to G F. 7-1-57
NYA	Colorado River-Quien Sabe Point										
	B A. of '56, Item 400	27	(n)	75,000	x	x				75,000	Negotiating for lease. D57-D58

1947	Columbia Historical State Park										
	Ch 1387 of '45										
	Ch. 1422 of '45										
	Ch 1319 of '47	----------	----------	237,576	x	x	NR	x	274,215	----------	B A. of '58, Item 417.1 transfers $75,000 to construction Negotiating and appraising proceeding Gift
	Ch 700 of '49										
	Ch. 1246 of '49										
	Ch. 486 of '47										
	B A of '56, Item 400	14	(h)	345,000	x	x	x	Partial	30,710	314,290	
	Cash gift 7-1-56	----------	----------	----------	----------	----------	----------	----------	499	----------	
1955	Colusa Sacramento River State Park										
	B A of '56, Item 400	34	(r)	50,000	x	x	x	x	28,812	21,188	Negotiating.
			(bb)	50,000	x	x	x	x	----------	50,000	Gift land $4,800
1947	Curry Bidwell Bar										
	Ch 1422 of '45	NI	NI	200	x	x	NR	x	9,200	----------	Gift land
1929	D L Bliss										
	Ch 765 of '27	----------	----------	126,736	x	x	NR	x	273,680	----------	Gift land
	B A of '56, Item 400	89	(pp)	75,000	Partial	----------	----------	----------	----------	75,000	D57-D58
1925	Del Norte Coast Redwoods										
	Ch 765 of '27										
	Ch 1216 of '41	----------	----------	252,095	x	x	NR	x	473,465	----------	Gift land
	B A of '56, Item 400	69	(jj)	50,000	x	x	----------	----------	1,630	48,370	Negotiation and condemnation
1928	Donner Memorial										
	Ch 765 of '27										
	Ch 1422 of '45	----------	----------	183,212	x	x	NR	x	354,787	----------	Gift
	Ch 3 of '52										
	B A of '56, Item 400	83	(kk)	150,000	Approved	----------	----------	Authorized	----------	150,000	Survey scheduled.
1931	Dry Lagoon										
	Ch 765 of '27	----------	----------	33,752	x	x	NR	x	40,204	----------	Gift
	B.A of '56, Item 400	100	(xx)	75,000	x	x	f/action	Partial	1,000	74,000	
1953	Emerald Bay										
	Ch 1422 of '45	NI	NI	599,500	x	x	NR	x	724,500	----------	Gift
NYA	Eureka Bowl										
	B A of '56, Item 400	18	(i)	500,000	x	x	x	x	12,793	487,207	Negotiating
NYA	Feather Falls										
	B A of '56, Item 400	108	(yy)	40,000	----------	----------	----------	----------	----------	40,000	D57-D58
1956	Folsom-Nimbus										
	B A of '56, Item 400	4	(d)	2,093,900	x	x	x	x	1,698,751	395,148	Negotiation and condemnation
	Sundry gifts	----------	----------	----------	----------	----------	----------	----------	100,000	----------	

Appendix II—Continued

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1955	Fort Humbolt it										
	Gift land				x	x	NR	x	100,000		Gift land
	B A. of '56, Item 400	87	(nn)	$150,000	x	x	Approved ($110,000)	x	$4,000	$146,000	"No action at the moment"
NYA	Fort Ross										
	B A of '56, Item 400	31	(q)	175,000	x	x	x	Assigned	1,000	174,000	
1940	Fort Tejon										
	Ch 1422 of '15	NI	NI	8,750	x	x	NR	x	20,000		Gift land
NYA	Franks Tract										
	B A of '56, Item 400	20	(k)	300,000	x	x	Approved ($150 000)	x	10,500	289,500	Negotiating
1953	Fremont Ford										
	Ch 1422 of '15	NI	NI	7,375	x	x	x	x	9,000		Gift
1935	Fremont Peak										
	Ch 765 of '27			3,193	x	x	x	x	8,369		Gift land
	B A of '56, Item 400	116	(ggg)	10,000	Partial	x	x	x		10,000	D57-D58
1953	Geo Hatfield										
	B A of '56, Item 400	66	(ee)	50,000	x	x		Authorized		50,000	D58
1942	Gold Discovery Site										
	Ch 944 of '11										
	Ch 1516 of '47			112,525	x	x	NR	x	114,525		Cash gift involved
	B A 777 of '55, Item 382										
	B A of '56, Item 400	2	(b)	250,000	x	x	x	x	117,570	132,490	Negotiating
1943	Grizzly Creek Redwoods										
	Ch 944 of '11			14,500	x	x	NR	x	14,500		
	B A. of '56, Item 400	91	(rr)	175,000	x	x	x	x	2,150	172,850	Negotiating
NYA	Grover Hot Springs										
	B A of '56, Item 400	76	(gg)	100,000	x	x	Approved ($60,000)	x	53,806	46,194	Negotiating and condemnation

1958	Hendy Grove										
	B A of '56, Item 400	23	(l)	550,000	x	x	x	x	550,000		
	Cash gift			52,000	x	x	x	x	52,000		Completed
	Henry Cowell Redwood										
	B A of '56, Item 100	90	(qq)	60,000	x	x		Authorized		60,000	D58
1921	Humboldt Redwoods										
	1921-22 Legislature; Ch 1122 of '45; Ch 186 of '17; Ch 23 of '18			828,735	x	x	NR	x	2,248,483		Gift land involved
	B A. of '55, Item 482			55,000	x	x	NR	x	55,000		
	B A. of '56, Item 400	57	(aa)	500,000	x	x	x	Partial	20,331	479,669	
1951	Ide Adobe SHM										
	Ch. 1122 of '45			11,250	x	x	NR	x	22,500		Gift
	B A of '56, Item 400	72	(cc)	50,000					50,000		D57-D58
NYA	Indian Grinding Rock										
	Ch 2440 of '57	NI	NI	40,000						10,000	D57-D58
NYA	Imperial Sandhills										
	B A. of '56, Item 400	48	(x)	75,000	x	x				75,000	D57-D58
NYA	Jack London Home										
	Ch 2251 of '57	NI	NI	1,000,000	Partial	Appr gift	NR	Authorized		1,000,000	D57
NYA	Joshua Tree										
	B A of '56, Item 400	67	(dd)	250,000	Partial	Appr. gift	x	x	238,290	11,710	Three parcels under condemnation
1951	Kern River Park Sites										
	Ch 1422 of '45			90,000	Partial	Appr gift	NR	x	90,000		Trial under way from deficiency
	Continued as of 7-1-56			45,275	Partial	Appr gift	NR	x	15,275		
1949	Knowland State Arboretum										
	Ch 1422 of '45			392,815					392,815		This figure contains amount below
	B A of '56, Item 400	43	(v)	90,000					67,625		Balance $22,375 transferred to Savings
	Sale of floodage easements			1,620							
NYA	Lake Elsinore										
	B A of '56, Item 100	NI	(qqq)	200,000	x	x		Authorized	760	199,240	Gift deeds received Additional planning under way
	B A. of '56, Item 400a	NI		150,000	x	x		Authorized		150,000	D58
NYA	La Marada Park										
	B A of '56, Item 400	NI	(ppp)	400,000	x					400,000	Withdrawn by L A County D57-D58

Appendix II—Continued

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1935	La Purisima Mission SHM Ch. 765 of '27 Ch. 486 of '47			$55,977	x	x	NR	x	$62,814		Gift
NYA	Livingstone Upland Park on Palos Verde Peninsula B A of '56, Item 400	NI	(ooo)	150,000	x					$150,000	Withdrawn by Los Angeles County D57-D58
NYA	Lodi Lake B A. of '56, Item 400	50	(y)	175,000						175,000	Project cancelled by State Park Com D57-D58
1947	Los Angeles Arboretum Ch. 1422 of '45	NI	NI	160,000	x	x	NR	x	320,000		Completed. Gift
1949	Los Encinos SHM Ch. 1298 of '47 B A. of '56, Item 400			25,000 30,000	x x	x x	x Approved ($5,000)	x x	50,000 3,038	 26,962	Gift One parcel under condemnation
1920	McArthur Burney Falls B A. of '56, Item 400				x x	x x	x 	x Authorized	50,000 	 20,000	Gift land
1949	McConnel Ch. 1122 of '45 Ch. 971 of '53	NI	NI	10,311	x	x	x	x	12,486		Completed
NYA	Mecca Hills B A of '56, Item 400	104	(uu)	75,000	Partial				0	75,000	
1929	Mission Bay (including Mission Beach Unit and Pacific Beach Unit) Ch. 765 of '27 Ch. 777 of '55	NI	NI	145,000	x	x	NR	x	303,850		Gift land
1956	Mitchell Caverns Ch. 1422 of '45 B.A. of '56, Item 400			25,000 30,000	x x	x x	NR NR	x x	50,000 	 30,000	Gift D57-D58

1929	Monterey SHM, Calif. First Theater										
	Ch 763 of '27	NI	NI	3,500	x	x	NR	x	6,500	----------	Transferred from Dept. of Finance. Gift
	Ch 1046 of '47										
1954	Gutierre Adobe										
	Ch 1422 of '45	NI	NI	12,080	x	x	NR	x	24,160	----------	Gift
1938	Old Custom House										
	Ch 1422 of '45	----------	----------	24,000	x	x	NR	x	136,410	----------	Gift
	B A of '56, Item 400	12	(g)	115,000	x	x	x	x	99,552	15,478	Completed
1952	Montgomery Memorial										
	B A of '56, Item 400	----------	----------	----------	x	x	NR	x	37,511	----------	Gift
		144	(eee)	15,000	x	Deferred	----------	----------	----------	15,000	D58
1932	Morro Bay										
	Ch 765 of '27	----------	----------	132,750	x	x	x	x	231,000	----------	Gift land
	B A of '56, Item 400.1	25	(l)	12,000	x	x	----------	x	----------	12,000	
1931	Mt Diablo										
	Ch 765 of '27										
	Ch 40 of '31	----------	----------	96,864	x	x	----------	x	169,056	----------	Gift
	B A of '56, Item 400	88	(oo)	200,000	Partial	----------	----------	----------	----------	200,000	D57-D58
1930	Mt San Jacinto										
	Ch 765 of '27	----------	----------	47,291	x	x	----------	x	89,400	----------	Gift
	B A of '56, Item 400	28	(o)	100,000	x	----------	----------	----------	----------	100,000	D57
1928	Mt. Tamalpais										
	Ch 651 of '27										
	Ch 765 of '27	----------	----------	153,001	x	x	----------	x	270,333	----------	Gift land
	Ch 1515 of '47										
	B A of '56, Item 400	86	(mm)	100,000	x	x	----------	x	1,566	98,444	Surveys completed
	Ch 2169 of '57	----------	----------	1,000,000	Partial	----------	----------	----------	----------	1,000,000	
1932	Palomar Mountain										
	Ch. 765 of '27										
	Ch. 971 of '53	----------	----------	57,345	x	x	NR	x	107,695	----------	Gift
	B A. of '56, Item 400	120	(kkk)	75,000	x	x	Approved ($60,000)	x	1,600	73,400	Negotiating
NYA	Paradise Park (Rancho Carne Humana)										
	Ch 2254 of '57	NI	NI	700,000	----------	----------	----------	----------	----------	700,000	D57-D58
NYA	Petaluma Adobe SHM										
	B A. of '56, Item 400	92	(ss)	50,000	x	x	f/action	x	1,000	49,000	
1933	Pfeiffer Big Sur										
	Ch. 765 of '27										
	Ch. 486 of '47	----------	----------	112,250	x	x	NR	x	206,250	----------	Gift

Appendix II—Continued

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1917	Pio Pico SHM										
	Ch 1422 of '45			$28,860	x	x	NR	x	$33,860		Gift land
	B A of '56, Item 400	97	(tt)	60,000	x	x	x	x	31,803	$28,179	One parcel under condemnation
1949	Placerita Canyon										
	Ch 1282 of '47			12,500	x	x	NR	x	25,000		Gift
	B A of '56, Item 400	122	(lll)	220,000	x	x	x	x	3,227	216,773	D58
1933	Point Lobos Reserve										
	Ch 765 of '27			613,752	x	x	NR	x	633,800		Cash gift
	B A of '56, Item 400	24	(k)	150,000	Partial					150,000	
1945	Portola										
	Ch 1066 of '43			112,500	x	x	NR	x	225,500		Gift
	B A of '56, Item 400	110	(aaa)	175,000	x	x	x	Assigned	8,000	167,000	
1923	Prairie Creek Redwoods										
	Ch 765 of '27; Ch 1422 of '45; Ch 1157 of '45; Ch 186 of '47; Ch 21 of '48			828,735	x	x	NR	x	2,248,483		Gift land
	B A 777 of '55, Item 382			50,000	x	x	NR	x	1,540	48,460	Balance reverted 7-1-58
	B A of '56, Item 400	30	(p)	500,000	x	x	x	x	3,792	496,207	Negotiating
NYA	Puddingstone										
	B A. of '56, Item 400	NI	(nnn)	2,000,000	x	x	x	x	1,872,500	127,500	Negotiating one parcel
1953	Pueblo de Los Angeles SHM										
	Ch 1422 of '45			35,000	x	x	NR	x	719,639		Gift land
	B A of '53, Item 376			299,523	x	x	NR	x	299,523		
	Cash gift from City of Los Angeles				x	x	NR	x	299,523		
	B A. of '56, Item 400	6	(e)	900,000	x	x	x	x	635,867	264,133	One parcel under condemnation

1922	Richardson Grove Redwoods										
	1921-22 Legislature										
	Ch 765 of '27			11,200	x	x	NR	x	55,050		Gift land
	Ch 700 of '49										
	B A of '56, Item 400	111	(bbb)	40,000	x	x	x	x	1,630	38,370	Negotiating
1949	R L Stevenson Memorial										
	Ch 1422 of '45			5,050	x	x	NR	x	10,500		
	B A of '56, Item 100	105	(vv)	125,000	Partial					125,000	D57
	Cash gift									879	
NYA	Sacramento River Sites-General										
	Ch 2169 of '57			500,000	Partial					500,000	
1951	Salton Sea-50 year lease from Federal Government										
	B A of '56, Item 100	9	(f)	225,000	x	x	x	x	87,881	137,119	Negotiating and condemnation
1946	S P Taylor										
	Ch 1411 of '45			39,727	x	x	NR	x	79,456		County canceled taxes due
	B A of '56, Item 400	118	(m)	40,000	x	x	x	x	1,500	38,500	Surveying completed, negotiating lease
	Gift									7,000	Cash gift
1933	San Juan Bautista										
	Ch 765 of '27			19,750	x	x	NR	x	42,800		Gift
	B A of '56, Item 400	112	(ccc)	20,000	x	x	Before PWB	Assigned	2,000	18,000	
NYA	Santa Cruz Mission										
	Ch 2236 of '56	NI	NI	45,000	x	x	NR	x	650	4,350	Negotiating
1937	Shasta SHM										
	Ch 765 of '27			450					3,680		Gift
	B A of '56, Item 400	113	(ddd)	75,000	x	x	f/action	Assigned	4,000	71,000	
	Cash gift 7-1-56									719	
1929	Sonoma Mission SHM										
	Ch 763 of '27			56,375	x	x	NR	x	71,875		Transferred from Dept of Finance Gift
	B A of '56, Item 100	81	(ii)	150,000	x	x	x	x	150,000		Completed
1921	Standish and Hickey										
	Ch 1422 of '45			19,500	x	x	NR	x			
	Ch 486 of '47			7,050					29,050		Completed, gift land
1950	Turlock Lake State Park	NI	NI		x	x	x	x			50-year lease from Turlock irrigation district
1933	Vallejo Home SHM										
	Ch 765 of '27										
	Ch 178 of '47			8,650	x	x	x	x	18,500		Transferred from Dept of Finance
	B A of '56, Item 100	117	(hhh)	50,000	x	x	Approved (17,000)	x	16,762	33,238	Condemnation one parcel Gift

Appendix II—Continued

STATUS REPORT ON STATE PARK ACQUISITION

Involving Funds Appropriated 1945-1958, Listed Alphabetically

Initial year	Park units and projects	*Priority in 5-Year Plan	*Priority in Budget Act of 1956	State funds allocated or approved	Planning status completed	State Park Commission approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended including gift values	Balance	Remarks
1956	Weaverville Joss House B A of '56, Item 400	19	(j)	$10,500	x	x	x	x	$40,500	----------	Completed
NYA	Woodson Bridge B A of '56, Item 400	107	(xx)	100,000	x	x	f/action	Assigned	5,500	$94,500	Budget change Red Bank Creek
	Additions to existing reservoirs B A of '56, Item 400 3	----------	----------	500,000	----------	----------	----------	----------	----------	500,000	Approved in principal
	Ch 2169 of '57	----------	----------	2,000,000	----------	----------	----------	----------	----------	2,000,000	$300,000 to Water Resources via B A of 58, item 427 5
	Palace of Fine Arts, San Francisco Ch 2386 of '57	NI	NI	2,000,000	----------	----------	----------	----------	----------	2,000,000	Requires matching
	Relocation of Redwood Highway B A of '56, Item 407	NI	----------	800,000	----------	----------	----------	----------	----------	800,000	
	Beaches in San Diego County Ch. 2381 of '57	----------	----------	409,117							

* Comparison indicates there is no essential difference between the priority number assigned to projects in the 5-year plan and the order they appear in the budget item One significant difference is Bodie State Historical Monument which was not included in the Division of Beaches and Parks 5-year plan but was substituted by the Legislature for Emerald Bay—priority number 35—and given a position above Calaveras Big Trees which has priority number 37 All other projects added to the appropriations by the Legislature were appended to the end of the list of projects

SHM —State Historical Monument
NYA —Not yet acquired
B A —Budget Act
NI —Not included
NR —Not required
GF —General Fund
f/action—Final action by Public Works Board withheld pending further study
D57 —In 1957 the Beaches and Parks staff recommended that this project be deferred until after 1960
D58 —In 1958 the Beaches and Parks staff recommended that this project be deferred until after 1960

Appendix III

STATUS REPORT OF BEACHES AND PARKS PROJECTS LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
1	Avenue of the Giants									
	Item 400 (a)	$600,000	x	x	x	x	$600,000		x	
	Cash gift	600,000		x	x	x	600,000		x	
2	Gold Discovery Site									
	B A of '55, Item 382	75,000	x	x	NR	x	75,000			
	Item 400 (b)	250,000	x	x	x	x	117,511	$132,489		
3	Butano									
	Item 400 (c)	1,000,000	x	x	x	x	936,123	63,877		
	Cash gift	31,385						31,385		
4	Folsom-Nimbus									
	Item 400 (d)	2,093,900	x	x	x		1,689,752	395,148		
	Gifts	100,000						100,000		
5	Hueneme Beach									Being replanned
	Item 400 1 (a)	461,000	x	Disapproved		x	7,200	453,800		D57
6	Pueblo de Los Angeles									
	Item 400 (e)	900,000	x	x	x	x	635,867	764,132		
	Gift	299,523	x	x	NR	x	299,523			
7	San Buenaventura									
	Ch 1422 of '45 cont. as of 7-1-56	100,000	x	x	NR	x	100,000			
8	Torrey Pines									
	Item 400 1 (b)	72,300	x	x	x	x	412	71,888		
	Cash gift	4,694						4,694		
9	Salton Sea									
	Item 400 (b)	225,000	x	x	x	x	87,881	137,119		
10	San Clemente									
	Item 400 1 (c)	200,000	x	x	x	x	16,825	183,175		D57
	B A of '55, Item 381	150,000	x	x	NR	x	150,000			
11	Doheny									
	Item 400 1 (d)	350,000	x	x	x	x	350,000		x	

Appendix III—Continued

STATUS REPORT OF BEACHES AND PARKS PROJECTS LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
12	Monterey Monuments Old Custom House Zone Item 400 (g)	$115,000	x	x	x	x	$99,552	$15,448	x	
13	Imperial Beach Item 400 1 (e)	650,000						650,000		D57-D58
14	Columbia Historic Item 400 (h)	315,000	x	x	x	Partial	30,710	314,290		B A of '58, Item 417 1 transf $75,000 to construction, negotiating and appraising piecemeal
	Cash gift	449						449		
15	Thornton Beach Item 400 1 (f)	400,000	Partial					400,000		
16	Stinson Beach Item 400 1 (g) Cash gift 7-1-56	50,000 2,551	x	x	x	x	25	49,975 2,551		
17	Montara Item 400 1 (h)	125,000	x	x	x	x	125	124,875		Condemnation 1 parcel
18	Eureka Bowl Item 400 (i)	500,000	x	x	x	x	12,793	487,207		Negotiating
19	Weaverville Joss House Item 400 (j)	40,500	x	x	x	x	40 500		x	Negotiating 1 parcel
20	Franks Tract Item 400 (k)	300,000	x	x	($150,000)	x	10,500	289,500		Negotiating
21	Manhattan Beach Item 400 1 (n)	175,000	x	x		Partial	5,114	169,886		
22	Bolsa Chica Item 400 1 (q)	1,000,000	x	x	x	x	12,000	988,000		Negotiating
23	Hendy Woods Item 400 (l) Cash gift	550,000 52,000	x x	x x	x x	x x	550,000 52,000		 x	

24	Point Lobos Reserve									
	Item 400 1 (k)	150,000	Partial					150,000		
25	Morro Bay									
	Item 400 1 (l)	12,000	x	x		x		12,000		
26	Colorado River-Pichacho 4-S Ranch									
	Item 400 (m)	100,000	x	x		Authorized		100,000		U S lands under negotiation
	B A of '55, Item 382	100,000	x	x		Authorized		100,000		Reverted to G F 7-1-58.
27	Colorado River-Quien Sabe									
	Item 400 (n)	75,000	x	x				75,000		D57-D58 Negotiating.
28	Mount San Jacinto									
	Item 400 (o)	100,000	x					100,000		D57
29	Pebble Beach									
	Item 400 1 (m)	55,275	Partial					55,275		D57-D58
30	Prairie Creek Redwoods									
	Item 400 (p)	500,000	x	x	x	x	3,792	196,208		Negotiating
	B A of '55, Item 382	50,000	x	x	NR	x	1,540	48,460		Reverted to G F 7-1-58.
31	Fort Ross									
	Item 400 (q)	175,000	x	x	x	Assigned	1,000	174,000		
32	Pismo Beach									
	Item 400 1 (n)	350,000	x	x	x(75,000)	x	71,567	278,433		Negotiation and condemnation
33	Kern River Park Sites									
	Ch 1422 of '45 cont as of 7-1-56	90,000	x	x	NR	x	90,000			Trial under way
	Ch 1122	45,275	x	x	NR	x	45,275			From deficiency.
34	Colusa-Sacramento River Park									
	Item 400 (r)	50,000	x	x	x	x	28,812	21,183		Negotiation and condemnation.
	Item 400 (bb)	50,000	x	x	x	x		50,000		
35	Emerald Bay									
	No funds appropriated Replaced with Bodie State Historial Monument Legislature									
35[1]	Bodie State Historical Monument									
	Item 400 (s)	200,000	Partial					200,000		D57-D58
36	Salinas River Beach									
	Item 400 1 (o)	100,000	Partial					100,000		
37	Calaveras Big Trees									
	Item 400 (t)	40,000	x	x		Authorized		40,000		
	Cash gift 7-1-56	150	x	x		x		150		

Appendix III—Continued

STATUS REPORT OF BEACHES AND PARKS PROJECTS LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
38	Benecia Beach									
	Item 400 1 (p)	$275,000	x	x	x	x	$136,782	$138,218		
39	Van Damme Beach									
	Item 400.1 (q)	19,500	x	x	x	x	19,220	208	x	Balance being transferred to savings.
40	Mendocino City Beach									
	Item 400 1 (r)	75,000	Partial					75,000		
41	Anza Borrego Desert									
	Item 400 (u)	350,000	x	x	x	x	185,124	164,876		Negotiating
	Cash gift 7 1-56	528						528		
42	Surfriders Beach									
	Item 400 1 (s)	175,000	Partial				19,209	155,791		
	Ch 1422 of '45 cont. as of 7-1-56	90,000	x	x	NR	x	90,000		x	
43	Knowland Arboretum & Park									
	Item 400 (v)	90,000	x	x	x	x	67,625	22,375	x	Balance transferred to savings.
	Sale of easement 7-1-56	1,620						1,620		
44	Avila-Cayucos-Cambria Beach									
	Item 400 1 (t)	190,000	x	x	x	x	184,650	5,350		Condemnation and negotiating
45	Twin Lakes Beach									
	Item 400.1 (u)	585,600	x	x	x	Partial	366,337	219,263		Negotiation and condemnation
46	Del Monte Beach									D57
	Item 400 1 (v)	250,000	x	x	x	x		250,000		Negotiating
	Cash gift	124						124		
47	Clear Lake									D57
	Item 400 (w)	177,970	x	x	x		523	177,447		Negotiating easements only.
48	Imperial Sand Hills									
	Item 400 (x)	75,000	x	x				75,000		Negotiating lease with USBR. D57

49	Russian Gulch Beach (Mendocino Co.)									
	Item 400.1 (w)	50,000	x	x	x	x	26,160	23,840		Condemnation on 1 parcel.
50	Lodi Lake									
	Item 400 (y)	175,000								Project cancelled by State Park Commission
51	Santa Monica Beach									
	Item 400.1 (x)	900,000	x	x	x	x	869,263	30,737		Negotiating and condemnation
	Ch. 1422 of '45 cont as of 7-1-56	85,000	x	x	NR	x	85,000			Condemnation—trial 9-8-58
	Ch. 2169 of '57	2,000,000	Partial		NR			2,000,000		
52	Corona del Mar Beach									
	Item 400.1 (y)	130,000	x	x	x	x	130,000		x	
53	Little Sur River Beach									
	Item 400.1 (z)	150,000	Partial					150,000		D57-D58
54	Russian Gulch Beach (Sonoma Co.)									
	Item 400.1 (aa)	90,000	x					90,000		D57
55	Carpenteria Beach									
	Item 400.1 (bb)	300,000	x	x	x	x	202,250	97,750		Negotiating and condemnation.
56	Castle Crags									
	Item 400 (z)	150,000	x	x	x	Partial	3,307	146,693		Negotiating with Division of Highways for exchange.
57	Humboldt Redwoods									
	Item 400 (aa)	500,000	x	x	x	Partial	20,331	479,669		
	B.A of '55, Item 382	55,000	x	x	x	x	55,000			
58	Point Dume Beach									D58
	Item 400.1 (cc)	800,000	x	x	x	x	474,322	325,678		Negotiating and condemnation.
59	Tomales Bay Beach									
	Item 400.1 (dd)	100,000	x	x	x	x	3,183	96,817		Surveys completed.
60	Pompino Beach									
	Item 400.1 (ee)	75,000	x	x				75,000		D57
61	Sunset Beach									
	Item 400.1 (ff)	200,000	x	x	x	x	150,843	49,157		Negotiating.
62	Seacliff Beach									
	Item 400.1 (gg)	160,000	Partial					160,000		
	B.A of '55, Item 381	75,000	x	x	NR	x	72,850	2,150		Balance returned to G.F. 7-1-58.
63	Colusa-Sacramento River Park									
	See No. 34 (Item 400 (bb))									
64	Pescadero Beach									
	Item 400.1 (hh)	75,000	x	x		x	2,500	72,500		

Appendix III—Continued

STATUS REPORT OF BEACHES AND PARKS PROJECTS LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
65	Natural Bridges Beach Item 400 1 (ii)	$90,000	x	x	x($85,000)	x	$29,429	$60,571		Negotiating.
66	Geo J Hatfield Item 400 (cc)	50,000	x	x		Authorized		50,000		D57-D58
67	Joshua Trees Item 400 (dd)	250,000	x	x	x	x	3,038	26,962		One parcel under condemnation.
68	San Francisco Master Plan Item 400 2	2,000,000	x	x				2,000,000		Negotiating for lease of city land
69	Del Norte Coast Redwoods Item 400 1 (jj)	50,000	x	x		Partial	1,630	48,370		Negotiating and condemnation.
70	Manchester Beach Item 400 1 (kk) Cash gift 7-1-56	130,000 6,151	x	x		Authorized		130,000 6,151		D58 Surveys under way
71	Old Ships, San Francisco Item 406	200,000								
72	Wm B Ide Adobe Item 400 (ee)	50,000						50,000		D57-D58
73	Frances-Dunes Beach Item 400 1 (ll)	450,000	x	x	x	x	260,531	189,469		Negotiating and condemnation
74	Mitchell Caverns Item 400 (ff)	30,000	x	x				30,000		
75	Mission Bay-Pacific Beach (Ocean Beach) Item 400 1 (mm) B A of '55, Item 381	400,000 41,009	x x	x x	x NR	x x	22,100 27,500	377,900 13,509		Negotiating Completed
76	Grover Hot Springs Item 400 (gg)	100,000	x	x	x (60,000 only)	x	53,806	46,194		Negotiating and condemnation

77	Steel Beach									
	Item 400 1 (nn)	50,000	x	x	x	x	50,000		x	Deficiency augmentation.
	Ex Order No E 58-23	51,095	x	x	x	x	51,095			
78	Alabama Hills									
	Item 400 (hh)	50,000	x					50,000		
79	Big Basin Redwoods									
	Item 400 (n)	500,000	Partial	Partial x	f/action	Partial		500,000		
	B A of '55, Item 382	175,000	Partial		NR	Partial	53,390	121,610		Balance reverted to G F 7-1-58
80	Miramontes Beach									
	Item 400 1 (oo)	75,000						75,000		
81	Sonoma Mission									
	Item 400 (jj)	150,000	x	x	x	x	150,000		x	
82	Point Sal Beach									
	Item 400 1 (pp)	100,000	x	x				100,000		
83	Donner Memorial									
	Item 400 (kk)	150,000	x			Authorized		150,000		Survey scheduled
84	Pfeiffer-Big Sur									
	Item 400 (ll)	70,000	x	x	x (50,000 only)	x	42,703	27,297		Condemnation 2 parcels
	Cash gift 7-1-56	6,000	x	x	x	x		6,000		
85	Bakers Beach									
	Item 400 1 (qq)	30,000	Partial					30,000		D57-D58
86	Mount Tamalpais									
	Item 400 (mm)	100,000	x	x	Ready for PWB	x	1,556	98,444		Surveys completed
	Ch 2169 of '57	1,000,000	Partial					1,000,000		
87	Fort Humboldt State Historical Monument									
	Item 400 (nn)	150,000	x	x	x (110,000 only)	x	4,000	146,000		No action at the moment
88	Mount Diablo									
	Item 400 (oo)	200,000	Partial					200,000		D57-D58
89	D L Bliss									
	Item 400 (pp)	75,000	Partial					75,000		D57-D58
90	Henry Cowell Redwoods									
	Item 400 (qq)	60,000	x	x		Authorized		60,000		D58

Appendix III—Continued

STATUS REPORT OF BEACHES AND PARKS PROJECT LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
91	Grizzly Creek Redwoods Item 400 (rr)	$175,000	x	x	x	x	$2,150	$172,850		Negotiating
92	Petaluma Adobe Item 400 (ss)	50,000	x	x	f/action	x	1,000	49,000		
93	Sonoma Coast Beach Item 400.1 (rr)	350,000	x	x		Authorized		350,000		
94	MacKerricher Beach Item 400.1 (ss)	45,000	x	x		Assigned	500	44,500		
95	Oso Flaco Lake Beach Item 400.1 (tt)	350,000	x	x	x ($75,000only)	x	71,568	278,432		Negotiating and condemnation.
96	Silver Strand Beach Item 400 1 (uu)	48,000	x	x		Authorized		48,000		D58
97	Pio Pico State Historical Monument Item 400 (tt)	60,000	x	x	x	x	31,804	28,196		One parcel under condemnation.
98	New Brighton Beach Item 400.1 (vv)	60,000	x	x	x (48,000 only)	x	900	59,100		Negotiating
99	Huntington Beach Item 400 1 (ww)	300,000	x	x		x	5,000	295,000		
100	Dry Lagoon Beach Item 400.1 (xx)	75,000	x	x	Before PWB	Partial	1,000	74,000		
101	Manresa Beach Item 400.1 (yy)	50,000	Partial					50,000		
102	Moonlight Beach Item 400 1 (zz)	100,000	x	x	x (85,000 only)	x	3,800	96,200		Negotiating
103	Lime Kiln Creek Beach Item 400 1 (aaa)	100,000	Partial					100,000		D57-D58

104	Mecca Hills									
	Item 400 (uu)	75,000	Partial					75,000		
	Cash gift 7-1-56	9,830	Partial					9,830		
105	Robert Louis Stevenson Memorial									
	Item 400 (vv)	125,000	Partial					125,000		D57
	Cash gift 7-1-56	879						879		
106	Benbow Lake									
	Item 100 (ww)	250,000	x	x	x	Partial	218,851	31,149		Negotiating.
107	Woodson Bridge									
	Item 400 (xx)	100,000	x	x	f/action	Assigned	5,500	94,500		Budget change from Red Bank Creek.
108	Feather Falls									
	Item 400 (yy)	40,000						40,000		D57-D58
109	Coe Ranch-Anderson Reservoir-Lexington Reservoir Park									
	Item 400 (zz)	150,000	x	Partially approved		Assigned	4,129	145,781		Gift deed being processed on Coe Ranch. Lexington Reservoir disapproved by S.P C D58
110	Portola									
	Item 100 (aaa)	175,000	x	x		Assigned	8,000	167,000		
111	Richardson Grove									
	Item 400 (bbb)	40,000	x	x	x	x	1,630	38,370		Negotiating.
112	San Juan Bautista									
	Item 400 (ccc)	20,000	x	x	Before PWB	Assigned	2,000	18,000		
113	Shasta State Historical Monument									
	Item 400 (ddd)	75,000	x	x	f/action	Assigned	4,000	71,000		
	Cash gift 7-1-58	719						719		
114	Montgomery Memorial									
	Item 400 (eee)	15,000	x	Deferred				15,000		
115	McArthur-Burney Falls									
	Item 100 (fff)	20,000	x	x		Authorized		20,000		
116	Fremont Peak									
	Item 400 (ggg)	10,000	Partial					10,000		D57-D58
117	Vallejo Home State Historical Monument									
	Item 100 (hhh)	50,000	x	x	x (17,000 only)	x	16,763	33,237		One parcel under condemnation
118	Samuel P. Taylor									
	Item 400 (iii)	40,000	x	x	x	x	1,556	98,444		Surveys completed—negotiating lease with water district.
	Cash gift	7,000						7,000		

Appendix III—Continued

STATUS REPORT OF BEACHES AND PARKS PROJECTS LISTED IN ORDER OF PRIORITY AS SHOWN IN STATE PARK SYSTEM FIVE-YEAR MASTER PLAN

5-year plan priority	Park unit or project*	Amount appropriated	Planning completed	Commission Act approved	Public Works Board approved	Appraisals completed	Amount encumbered or expended	Unexpended balance	Project completed	Remarks
119	Los Encinos State Historical Monument Item 400 (jjj)	$30,000	x	x	x ($5,000 only)	x	$3,038	$26,962	----------	One parcel under condemnation
120	Palomar Mountain Item 400 (kkk)	75,000	x	x	x (60,000 only)	x	1,600	73,400	----------	Negotiating.
121	Elwood Beach Item 400 1 (bbb)	120,000	Partial	----------	----------	----------	----------	120,000	----------	Withdrawn by Santa Barbara County and S.P.C. D57-D58
122	Placerita Canyon Item 400 (lll)	220,000	x	x	x	x	3,228	216,772	----------	D57-D58
123	San Simeon Beach	200,000	x	x	----------	Partial	5,412	194,588	----------	Awaiting surveys.
NI	Puddingstone Park Item 400 (nnn)	2,600,000	x	x	x	x	1,872,500	127,500	----------	Negotiating one parcel
NI	Livingstone Uplands Park on Palos Verde Peninsula Item 400 (ooo)	150,000	x	----------	----------	----------	----------	150,000	----------	D57-D58 Withdrawn by County of L.A.
NI	La Mirada Park Item 400 (ppp)	400,000	x	----------	----------	----------	----------	400,000	----------	D57-D58 Withdrawn by County of L.A.
NI	Lake Elsinor Item 400 (qqq)	200,000	x	x	----------	Authorized	760	199,210	----------	Gift deeds received; additional planning under way
	Item 400 (a)	150,000	x	x	----------	Authorized	----------	150,000	----------	D58
NI	Royal Palms Beach Item 400 1 (ccc)	500,000	x	x	x (125,000 only)	x	5,650	494,350	----------	Negotiating lease of U.S. lands—condemnation
NI	Malibu Lagoon Beach Item 400.1 (fff)	160,000	Partial	----------	----------	----------	----------	160,000	----------	D58

NI	Palos Verdes Beach Access Way Item 400 1 (ggg)	100,000	x					100,000		D57-D58 Withdrawn by County of L A.
NI	Additions to existing and proposed public reservoirs									
	Item 400 3	500,000						500,000		Approved in principal
	Ch 2169 of '57	2,000,000						2,000,000		Approved in principal $300,000 to Water Resources via B A. of '58, Item 427.5
NI	Alameda City Beach Ch 2169 of '57	1,000,000	x					1,000,000		
NI	Sacramento River—General River Sites Ch 2169 of '57	500,000	Partial					500,000		
NI	Trinidad Beach Ch 2169 of '57	75,000						75,000		D58
NI	Jack London Home Ch 2251 of '57	100,000	Partial					100,000		D57 Gift approved
NI	San Diego County Beaches Ch. 2381 of '57	368,100						368,100		Money from sale of lands in Silver Strand State Park Plans to be agreed upon.
NI	Fine Arts Palace - San Francisco Ch. 2386 of '57	2,000,000						2,000,000		Requires matching
NI	Indian Grinding Rock Ch 2440 of '57	40,000						40,000		D57-D58
NI	Ranch Carne Humana (Paradise Park) Ch 2251 of '56	700,000						700,000		D57-D58
	Redwood Highway Item 407	800,000	Partial	x	x			800,000		
	Redwood Highway Relocation Item 407 1	2,605,000	x	x			2,605,000			

* Unless otherwise indicated all item citations are from the Budget Act of 1956

SPC —State Park Commission
NI —Not included
B A —Budget Act
D57 —In 1957 the Beaches and Parks staff recommended that this project be deferred until after 1960
D58 —In 1958 the Beaches and Parks staff recommended that this project be deferred until after 1960
NYA —Not yet acquired
NR —Not required
GF —General Fund
f/action—Final action of the Public Works Board withheld pending further study

APPENDIX D

REVIEW OF PARK ACQUISITION PROGRAM AND PROCEDURE

INTER-DEPARTMENTAL COMMUNICATION

STATE OF CALIFORNIA, SACRAMENTO 14
Date: August 30, 1957

To: MR NEWTON B. DRURY, *Chief*
Division of Beaches and Parks
721 Capitol Avenue, Sacramento 14, California

From: DEPARTMENT OF NATURAL RESOURCES

I have requested Mr Aronstein to analyze the acquisition program and problems confronting our Division of Beaches and Parks.

We are all aware of the tremendous task ahead of us in this field and the deadline against which we must work if we are to accomplish the Five-year Plan of the State Park Commission and the intent expressed by the Legislature during the 1956 and 1957 Sessions.

From Mr. Aronstein's analysis of this problem it is obvious that ways and means must be developed to greatly accelerate our acquisition program. Attached you will find three copies of Mr. Aronstein's analysis and suggestions.

I should appreciate it if both you and the staff officers involved in this program would review this analysis so that we might get together on this problem in the near future. If possible, I should like to have a conference on this subject on September 11, 1957.

(Signed) DEWITT NELSON, *Director*

OFFICE MEMO

STATE OF CALIFORNIA
DIVISION OF BEACHES AND PARKS
DEPARTMENT OF NATURAL RESOURCES
Date: August 29, 1957

From: E. A. ARONSTEIN, Administrative Officer
To: DEWITT NELSON, Director

Subject: Review of Park Acquisition Program and Procedure

The recent large appropriations for new park acquisitions present to the department and the division a challenge of the highest order. The program will require that a total of between four and five thousand parcels be acquired within the next four years. This means that between 1,000 and 1,250 acquisitions must be completed annually; five a day, 110 a month.

Measured against accomplishments of the 1956-57 Fiscal Year this represents a very large increase. During the 1956-57 Fiscal Year the

Los Angeles office completed 65 acquisitions and the Sacramento office 74 acquisitions for a total of 139 completed acquisitions. The Los Angeles office had completed negotiations and placed in escrow an additional 21 parcels. Also 22 parcels contained in four condemnation suits had been acquired by stipulation in that year. However, of these 22 none had originated during the 1956-57 Fiscal Year. Information regarding uncompleted acquisitions was not available for the Sacramento office. A total of two acquisitions was completed as a result of condemnation actions during the 1956-57 Fiscal Year. This is a fractional percentage of the total acquisitions.

The "Real Property Appraisers Handbook" issued by the U. S. Army Engineers states in part as follows:

> "In a project of hundreds of tracts, for example, if 95 to 100 percent * * * were optioned through negotiations, the high percentage might indicate the probability of the appraisals being too high. In such an example, in the neighborhood of 80 to 85 percent optioning by negotiation may be considered more nearly to reflect the average general public acceptance of a sound appraisal program reflecting * * * fair market values as of dates of takings."

I am informed by the Division of Highways that they file condemnation actions on between 30 to 40 percent of all acquisitions. Negotiations continue subsequent to such filings and most of the suits are settled by stipulated judgments

An analysis of 14 condemnation actions indicated a substantial time lag from the date that the State Park Commission authorized condemnation until the request to condemn was received by our office. One-half of these requests was received herewithin three months or less, while the other half was received after three months. Of the latter, one took more than six months to reach us, three more than nine months and two more than a year. Inquiry from the division indicated that these lags were occasioned by the fact that often further negotiations take place after authorization to condemn was granted by the commission and also that considerable time is involved to prepare the documents for condemnation action.

Inquiry of the Division of Highways and the Department of Finance regarding practices on condemnation procedure indicated that those agencies did not request authorization for condemnation until all hope for negotiated settlements had been abandoned and that at the time the request was made all papers necessary to file suit were complete. I would like to quote from Section 1.16 of the Highways Right-of-Way Manual:

> "The threat of court proceedings should not be used to reach a settlement by negotiation. The very nature of right-of-way acquisition work for public use is such that the department cannot expect to reach an amicable settlement with every property owner from whom it is necessary to acquire right-of-way
>
> "In those cases where it is not possible to reach a settlement after negotiations have been carried on for a reasonable period of time, the district will forward a recommendation to Headquarters Office, together with request to the California Highways Commission for resolution authorizing condemnation.

"Upon passage of proper resolution by the Highway Commission, the legal department will prepare the necessary legal papers for the filing of suit. Upon filing of the suit and without further delay, the property owner and all other parties in interest shall be served with necessary condemnation papers and, in fairness to both the owner and the Division of Highways, trial of the case shall be set at an early date."

It may be that the reluctance on the part of the Division of Beaches and Parks to file condemnation action is responsible for the comparatively large number of acquisitions acquired at prices above the low appraisal. An analysis of acquisitions during the 1956-57 Fiscal Year showed that Southern California acquisitions were acquired at an average of 2.7 percent over the low appraisal. The acquisitions completed during the same period in Northern California averaged 7.1 percent over the low appraisal. Excluded from this latter figure was the acquisition of the Avenue of the Giants. However, a further analysis of the figures shows that, insofar as the number of acquisitions is concerned, by far too large a number are required at substantially above the low appraisal price. This is particularly true of acquisitions in Northern California.

It is possible that some of our problems in connection with acquisitions above low appraisals are occasioned by the fact that insufficient review is given appraisal reports. From all information I have been able to obtain occasions should be rare when competent appraisers differ by more that 10 percent. Some of the appraisal reports received have varied by as much as 50 percent while a great many vary by amounts considerably in excess of 10 percent.

. . .

Based on acquisitions completed during the 1956-57 Fiscal Year simple arithmetic leads one to the conclusion that at the rate of accomplishment during that year it would take us 32 years to complete the present park acquisition program.

In order to ascertain whether or not additional staffing is necessary to accelerate our program or whether our problem lies elsewhere I obtained data from the Highway Division as to the average annual output per negotiators. They advised that the annual average production per man-year was 220 parcels. The average annual output in the Division of Beaches and Parks was 13 parcels per man-year. Both of these figures exclude top supervision. It is conceded that both the type of acquisition and the particular methods involved differ as between the two divisions. Nevertheless it would appear that the contrast is much too great.

From the above comments a number of deductions may be made:

1. The total number of annual acquisitions must be increased almost tenfold for the division to meet the goal set by its five-year program and by subsequent legislation.
2. The average transactions completed per man-year appears too low.
3. In many instances prices at which parcels are negotiated are too high.
4. Of the total number of acquisitions completed too few are a result of condemnation action.

5. There is too great a time lag between the date the resolution of the commission is adopted and the condemnation action is filed.

No single solution to all of these problems appears at hand. By far the most important problem from the public relations point of view is the obligation we have to complete the acquisition program within the prescribed period. The 1958-59 Fiscal Year budget request carries a request for four new positions in the Land Acquisition Section. This added to the two positions requested for the 1957-58 Fiscal Year would give the acquisition section a total of 26 persons excluding top supervision and stenographic help. It is obvious that at the current rate of completing acquisitions this staff is still far too small to accomplish the desired results The contrast in the output per man-year between the Division of Highways and the Division of Beaches and Parks forces me to urge that an immediate study be made of the procedures in vogue in the latter division. I have been advised by competent authority that even under the conditions under which this division must operate it is not too much to expect one man to complete 10 projects a month provided that the procedures are adequately streamlined. If such a study discloses that our procedures are satisfactory, additional personnel should be sought.

So that our acquisition costs will more nearly approximate the low appraisal, I suggest that the procedures discussed at a meeting in the Attorney General's Office on July 19, 1957, and set forth in Exhibit A attached hereto be adopted. I believe that this procedure will accomplish the purpose for which it is designed in two ways. First it will assure us of a better appraisal upon which our negotiators can base their negotiations. Secondly it should bring our policy in regard to the condemnation procedure more in line with other state agencies and with the U S. Army Engineers.

In order that condemnations can be more quickly brought to trial I would recommend that requests of the State Park Commission for approval to condemn property be withheld until all possibility of a negotiated settlement has been exhausted, and that all data necessary for the Attorney General to proceed be in order at the time that the commission takes action. There should be no delay between the time that the commission takes action and that the material is placed in the hands of the Attorney General.

(Signed) E. A. ARONSTEIN, Administrative Officer

EXHIBIT A

1. Appraisals will be secured in accordance with Department of Finance letter of December 5, 1956.
2. Appraisers' qualifications will accompany all contracts for appraisal services unless such qualifications already are on file in my office.
3. When the difference between the low and the high appraisal does not exceed 10 percent of the low appraisal, negotiators will be authorized to proceed, with the understanding that in the event settlement cannot be reached at a price equal to 10 percent above the average of all appraisals (after adjustment to reflect any price changes due to time elapsed since appraisals were made), the acquisition will be

referred to the State Park Commission with a request to authorize condemnation proceedings. Exception to this procedure may consist of (a) isolated parcels of low value (less than $500), whose acquisition at a price in excess of 10 percent of the average would not affect acquisition of other properties in the project (b) parcels where the natural values to be acquired may be destroyed before action by means of condemnation can be completed.

4. If the difference between the low and high appraisals exceeds 10 percent of the low appraisal, or if the parcel to be acquired exceeds $100,000 in value, appraisals will be reviewed by a competent consultant employed by this office. After review of the consultant's report, a sum which the State will pay without proceeding through condemnation, will be fixed in conference between the Division of Beaches and Parks, this office, and the Department of Finance Thereafter negotiations may proceed as in 3 above.

NUMBER OF ACQUISITIONS
For the Fiscal Years 1955-56 and 1956-57

1955-56	105 parcels negotiated
	(65) actual transmittals processed
1956-57	237 parcels negotiated
	(173) actual transmittals processed
	+1 Kline not reported until August
	174

NUMBER OF ACQUISITIONS
1946 through June 30, 1954

Total number of purchases	383
Total number of gifts	72
Total number of acquisitions by condemnation	16
TOTAL	471

471 divided by 8 5 years = 55.4 per year
55 4 divided by 12 = 4 6 per month.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959
VOLUME 13 NUMBER 23

METROPOLITAN GOVERNMENT IN CALIFORNIA

A Background Study With Recommendations

A REPORT TO THE

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING AND PUBLIC WORKS

House Resolution No. 215, 1957

Report Prepared by

PACIFIC PLANNING AND RESEARCH

SAMUEL E. WOOD, *President*

PHILIP G. SIMPSON
Author

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Published by the
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COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
SACRAMENTO, CALIFORNIA, March 1, 1959

HON. RALPH M. BROWN
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento, California

This is the first of two studies submitted on the subject of metropolitan organization during this interim and the fifth study prepared by the subcommittees of this committee during the past six years on the various phases of metropolitan problems and governmental structures.

The report was prepared at the request of this committee early in our interim work of this session to furnish background for the development of general legislation of a permissive nature to assist the metropolitan communities in California in meeting their area-wide problems. It is my hope that it will be useful to the Legislature in its consideration of legislation to be presented in a subsequent study.

Respectfully submitted,

THOMAS M. REES, Vice Chairman
Assembly Interim Committee on
Conservation, Planning, and Public Works

2—L-4080

LETTER OF TRANSMITTAL

PACIFIC PLANNING AND RESEARCH
SACRAMENTO, CALIFORNIA, March 1, 1959

HON. THOMAS M. REES, *Vice Chairman*
Conservation, Planning, and Public Works
California State Assembly, Sacramento, California

DEAR MR. REES: This report, prepared in accordance with House Resolution No. 215, 1957, is the background study on Metropolitan Problems and Solutions in California, requested at the full committee programing conference following the 1957 Session. The second companion report will be presented to you shortly, outlining and justifying a general law creating a metropolitan multipurpose district for the State of Califonia. The research and analysis involved in this report are largely a byproduct of the studies of Pacific Planning and Research undertaken for your committee over the past six years.

Following the request of your committee, this material has been reworked and reorganized under my direction to include the findings of additional staff study, the results of the hearings of your Subcommittee on Planning, and the efforts of several metropolitan communities in California to establish a workable and politically feasible structure.

It is our hope that this study will serve as a background to the report which follows, justifying a legislative program. We feel that the rationality behind this approach and the procedures and processes discussed in this report will be helpful to the developing metropolitan communities of this State.

Respectfully submitted,

SAMUEL E. WOOD, *President*
Pacific Planning and Research, Sacramento

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SUMMARY OF FINDINGS AND CONCLUSIONS

1. The basis of the metropolitan problem is the lack of a general governmental organization through which the metropolitan community may seek solutions to its composite problems.
2. California presently has nine growing metropolitan communities which contain over 1,500 units of government and not one has a general metropolitan government to provide control for area-wide problems.
3. California should be concerned with seeking a solution to the metropolitan problem. This is particularly so since this problem currently affects 80 to 90 percent of the population of the State.
4. To solve metropolitan problems the establishment of area-wide jurisdictions are required.
5. The actual establishment of effective general metropolitan government rests upon its meeting the following requirements:
   a. Political feasibility, which includes the features of adequate representation, ultimate control in the hands of the governed, and preservation of a high degree of home rule to existing local governments.
   b. Structural adequacy, which includes the features of area-wide jurisdiction, sufficient authority and power to perform assigned functions, and adequate financing to provide the required functions.
6. A metropolitan multipurpose district, properly constituted, provides a form of metropolitan government that is both structurally adequate and politically feasible for use in California. This is particularly so where metropolitan areas include all or parts of more than one county. Such a metropolitan government may be authorized for use in this State by an act of the State Legislature.
7. It is recommended that a metropolitan government based on the metropolitan multipurpose district proposal contained in this paper be made available for use in California by an act of the State Legislature. This act by authorizing the use of the metropolitan government as proposed would allow the metropolitan communities throughout the State to establish metropolitan area-wide jurisdictions adjusted to their own particular needs.

CHAPTER I

THE NEED FOR A METROPOLITAN GOVERNMENT

Much writing has been done on the topic of metropolitan government. One author has summarized its contents and the conclusions thus:

> For the most part the literature on metropolitan areas has been limited to detailed descriptions of the structure of their governments and the types of problems which result therefrom and an analysis of the same alternative devices for metropolitan integration classified by Studenski in 1930. After running the gamut of pros and cons of annexation, contractual arrangements, extraterritorial powers, special districts, the federated metropolis, and city-county consolidation or separation, virtually all of the studies conclude with the same pessimistic note—those "solutions" which are adequate are not politically feasible and those which are politically feasible are not adequate.[1]

This study develops the thesis that there is available a governmental structure both adequate and politically feasible for use in metropolitan areas. It should be noted that the suggested metropolitan governmental arrangement is based upon existing forms of local government in the State of California and is recommended for use in this State.

THE METROPOLITAN COMMUNITY

Since this study deals specifically with the government of metropolitan communities, the term "metropolitan community" needs to be defined. The definition most frequently used, particularly for statistical purposes, is the one developed by the United States Bureau of the Census in 1950:

> Except in New England, a standard metropolitan area is a county or a group of counties which contains at least one city of 50,000 inhabitants or more. In addition to the county, or counties, containing such a city, or cities, contiguous counties are included if according to certain criteria they are essentially metropolitan in character and socially and economically integrated with the central city.[2]

This definition is based primarily upon population and political boundaries. Other definitions have used these and numerous other factors, including newspaper circulation and market characteristics.[3] Disagreement among the various authors concerning the use of one criterion or another in conjunction with the particular statistical nature of their studies results in a variety of definitions.

---

[1] Daniel R Grant, "Federal-Municipal Relationships and Metropolitan Integration," *Public Administration Review*, XIV (Autumn, 1954), p 259.

[2] U. S Bureau of the Census, *Census of the Population 1950*, Vol I (Washington: Government Printing Office, 1952), p xxxiii

[3] *Cf*, Albert J Reiss, Jr, "The Community and the Corporate Area" *University of Pennsylvania Law Review*, 105 (February, 1957), pp. 443-63

This report, however, is not a statistical study and, therefore, it is essential only to understand the basic concept of the "metropolitan community." Basically, a metropolitan community is a complex of urban areas geographically situated so as to be socially and economically interdependent and having one or more dominant centers of activity.

The metropolitan community has definite characteristics which identify it further. These include, generally: a proportionately high rate of population increase as compared to non-metropolitan areas;[4] a migration of population to areas peripheral to the metropolitan centers giving rise to suburban centers;[5] and a spread of population over broad areas expanding the metropolitan community.[6]

THE METROPOLITAN PROBLEM

The assumption has been made that:

> * * * our metropolitan areas will continue to grow in size, in intensity, and in complexity, and that there will be no fundamental change in their essential form. We may expect, and should seek substantial changes in physical arrangements within the broad patterns but, basically, our great urban concentrations are here to stay.[7]

As these "great urban concentrations," or metropolitan communities, develop and exist they give rise to and nurture a general situation popularly termed the "metropolitan problem."

The growth of individual metropolitan areas by population expansion and migration has taken place at such a rate that most of this population now lies outside of the component cities. In fact,

> * * * approximately one-fourth of the central cities do not contain a majority of the people of the metropolitan areas in which they are located. Such population distribution is present in at least one metropolitan area in each of 19 states and exists in most metropolitan sectors of California and Pennsylvania. Numerous new metropolitan residents have settled in the outlying portions, and some people have moved to them from the central cities.[8]

Coupled with this fact is the condition that it is within corporate city boundaries that urban type services of sewage disposal, water supply, police and fire protection, and many others are provided Most county governments in California, with the exception of San Francisco and Los Angeles counties, are not equipped to provide urban-type services. Nevertheless, "the need for these functions does not stop at the artificial boundaries of the city * * * Wherever aggregations of people live in densely settled areas, there arise problems of providing governmental services."[9] Thus, the metropolitan problem arises—urban settlements have found themselves without urban services.

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[4] John C Bollens, *The States and the Metropolitan Problem* (Chicago: The Council of State Governments, 1956), pp 8-9
[5] *Ibid.*, pp 9-10
[6] *Ibid.*, p. 10
[7] Hugh Pomeroy, "Local Responsibility" (address to the National Conference on Metropolitan Problems, East Lansing, Michigan, May, 1956)
[8] Bollens, *op cit*, p 10
[9] Betty Tableman, *Governmental Organization in Metropolitan Areas* (Ann Arbor: University of Michigan Press, 1951), p 3

In attempting to alleviate this lack of governmental services, the residents of these urban settlements actually have complicated the situation. The method resorted to most frequently in California has been to create a special district to provide whatever service is needed most. Perhaps water supply is most urgent. A water district is established. Later on, fire protection or street lights are needed. These districts are established. Still later, other districts are created as the need for additional services arises. Eventually many special governmental units fill the area. Such governmental units in the metropolitan areas of California alone number over 1,000 (refer to Table I).

The configuration of these special districts is just as complicating as their gross number.

> Unlike other classes of governments, special districts may generally function in an area regardless of what other governments exist there. As a result, several types of districts * * * occupy portions or all of the area of one another, as well as territory of other local governments. Thus layer upon layer of government exist in many sections of metropolitan areas.[10]

The net result of this arrangement is that what is essentially one large metropolitan community by social, economic, and geographic relationships is divided into many different disintegrated governments. "Public activities are splintered among many governmental units, and each of them is legally free to act independently on certain matters that may have substantial effects beyond its borders in other parts of the metropolitan area."[11]

The use of the single-purpose special district method by various component settlements within the metropolitan community to obtain urban services results in undesirable conditions in the community as a whole. The major ones are varying levels of governmental services, varying costs of these services from location to location, disparity in need for services and the ability to finance them, and lack of adequate and effective citizen control over the various minor divisions as well as the larger metropolitan community.[12]

The basis of the metropolitan problem is the lack of a general governmental organization through which the metropolitan community may seek solutions to its composite problems.

METROPOLITAN AREAS IN CALIFORNIA

There are a number of metropolitan areas in California. Certain pertinent facts about them are worthy of notice.

Presently at least nine growing metropolitan communities have been identified in this State: Bakersfield, Fresno, Los Angeles-San Bernardino Valley, Modesto, Sacramento, San Diego, San Francisco Bay, Santa Barbara-Santa Maria, and Stockton. This has been established on the basis of the definition of the metropolitan community presented above and on correspondence received from the respective city and county planning commissions.[13]

[10] Bollens, *op. cit.*, pp. 16-17
[11] Bollens, *op. cit.*, p. 17
[12] *Ibid.*, pp. 17-22
[13] See Table I and Map A.

The total population of these areas amounts to over 12,000,000 people. Since the latest official estimate of the total state population is almost 15,000,000 people,[14] the population contained in these nine metropolitan areas amounts to between 80 and 90 percent of the total state population.

These metropolitan areas also presently include all or part of 24 of the State's 58 counties. This is to say that over 40 percent of the counties are directly involved to some extent with metropolitan communities.

[14] California State Department of Finance, Financial Research Section, "California's Population in 1958" (Sacramento: State Department of Finance, 1958), p. 1.

TABLE 1

SUMMARY OF STATISTICAL DATA CONCERNING METROPOLITAN AREAS IN CALIFORNIA [1]

Column I	II Population[3]		III	IV Units of local government in area				
Metropolitan area[2]	a Central city	b Entire area	Counties presently included (all or part)[4]	a Counties	b Cities	c Special district	d School district	e Total
1 Bakersfield	50,000	200,000	Kern	1	1	22	9	33
2 Fresno	125,000	250,000	Fresno	1	2	*20	*10	33
3 Los Angeles-San Bernardino Valley	2,350,000	7,000,000	Los Angeles, Orange, San Bernardino, Riverside	4	80	*485	*165	734
4 Modesto	60,000	85,000	Stanislaus	1	2	3	5	11
5 Sacramento	175,000	525,000	Sacramento, Placer, Yolo, El Dorado	4	5	*200	*60	269
6 San Diego	500,000	1,000,000	San Diego	1	7	22	11	41
7 San Francisco Bay San Francisco Oakland	 810,000 400,000	 ---------- 3,300,000	San Francisco, San Mateo, Napa, Sonoma, Alameda, Santa Clara, Marin, Solano, Contra Costa	9	65	*259	*130	463
8 Santa Barbara-Santa Maria	60,000	140,000	Santa Barbara, San Luis Obispo	2	3	29	12	46
9 Stockton	90,000	150,000	San Joaquin	1	1	33	10	45
Totals	4,620,000	12,650,000		24	166	1,073	412	1,675

[1] Based on information obtained from the planning commissions of central city and/or central county of respective metropolitan areas.
[2] Designated so as to agree with definition of metropolitan community as defined in Chaper 1. (See Map A.)
[3] Based upon population estimates as received from planning commissions, adjusted to July 1, 1959, for uniformity and comparison purposes. State Department of Finance, Budget Division, Financial Research Section, population estimates were also compared.
[4] See Map A.
* Estimates derived from State Controller's "Annual Report of Financial Transactions" concerning counties, cities, special districts, school districts, and irrigation districts, fiscal year 1955-56 and calendar year 1956.

In addition to over 400 school districts contained in these nine areas and over 150 city governments, there are over 1,000 special districts existing in these same nine areas. This amounts to well over 1,500 separate units of government for what can be described as nine metropolitan communities.

Finally, even though these communities contain over 1,500 units of government, not one has a general metropolitan government to provide control for areawide problems.

NEED FOR METROPOLITAN GOVERNMENT

The root of the metropolitan problem has been identified. It is the lack of areawide jurisdictions necessary to handle areawide problems. To solve the problem a metropolitan areawide jurisdiction is required.

Various authorities in the field of government agree upon the necessity for a metropolitan government structure for use in California. According to John C. Bollens, Associate Professor of Political Science at the University of California, Los Angeles:

> The State should establish legal authorizations for the creation of general metropolitan units that will be adequate in function, financing ability, and structure.[15]

A study published by the Bureau of Public Administration, University of California at Berkeley, states:

> It is apparent that the cities, counties and special districts in California cannot, under existing law, cope with the metropolitan tangle unless they get help from the State. * * *
>
> Perhaps the most promising method of meeting metropolitan problems in California would be through the application of a new theory of home rule; * * *.
>
> This new theory of home rule * * * would require State action for the establishment of the metropolitanwide area as a unit of local home rule * * *.[16]

That is the object of this study—to devise an adequate and politically feasible metropolitan government for California. A government with such functions, financing ability, and structure as will be adequate for administering the affairs of a metropolitan community.

The scope of this project includes: a determination of the requisite features of such a metropolitan government, a review of metropolitan government structures that have been considered for use, and the developing of one or more of those alternatives which appear to be most acceptable for use, making such adaptations as may be necessary to more nearly meet the desired specifications.

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[15] Bollens, *op. cit.*, p. 132.

[16] Samuel C. May and James M. Fales, Jr., *The State's Interest in Metropolitan Problems* (Berkeley: University of California, Bureau of Public Administration, 1955), pp. 26-7.

CHAPTER II

REQUISITE FEATURES OF A METROPOLITAN GOVERNMENT

This chapter directs attention to those features of a metropolitan government which are considered necessary for structural adequacy and political feasibility. These are the factors upon which proposed metropolitan governmental arrangements normally are judged, and upon which most, if not all, have been found wanting. Consequently, it is imperative that the essential features of structural adequacy and of political feasibility be understood if we are to avoid developing just another imperfect form of metropolitan government.

A. STRUCTURAL ADEQUACY

There appear to be three general categories of elements necessary to produce structural adequacy in a metropolitan government. These are: those elements allowing for areawide jurisdiction, those elements allowing for performance of governmental operations; and those elements allowing for financial support.

Areawide Jurisdiction

The ideal metropolitan government would require areawide jurisdiction. As pointed out in the preceding section, metropolitan communities presently exist with bonds of social and economic interrelationships but with local governments within the area operating as numerous disintegrated units. Areawide needs are being handled in a piecemeal manner, if at all. The prime objective in creating a metropolitan government is to meet and solve areawide needs on an areawide basis. Such a conclusion has been presented by a state assembly committee report prepared by the Bureau of Public Administration of the University of California: "The creation of an areawide policymaking body would be an ideal solution to the problem of metropolitan government." [1]

Adequate Coverage of the Area. To assure areawide jurisdiction, the metropolitan government must have adequate coverage of the metropolitan area. This means, primarily, that the jurisdictional limits of the metropolitan government must be approximately the same as the defined gross limits of the metropolitan area. If the boundaries of the metropolitan community are soundly described by the limits of its areawide problems, the area boundaries of the agency intended to handle these problems must be the same

Secondly, there must be no overlap of jurisdiction. Where two or more agencies are committed to handle the same problem, or parts of the same problem, at any one jurisdictional level, a situation is created

[1] California Legislature, Assembly Interim Committee on Conservation, Planning and Public Works, *Adapting Government to Metropolitan Needs* (Sacramento State Printing Office, 1957), p 44.

which is most likely to result in a waste of time, effort, and resources, while the original conditions continue or possibly worsen. Such is presently the case in California metropolitan areas with special districts existing indiscriminately amongst other local units of government. "The numerous and overlapping units present a local government pattern that is inadequate for metropolitan needs."[2] The lesson to be drawn from this, then, is to disallow the possibility of two or more equivalent governments overlapping one another in areal boundaries. This also has implications for the assignment of local or areawide governmental functions in a metropolitan government arrangement. This will be discussed later.

Thirdly, no "islands" or exceptions to areawide jurisdictions must exist within the defined boundaries of the ideal metropolitan government. It is inconceivable that any area within a larger area of complex interrelationships and community problems could exist without sharing at least one or more of the same problems. In particular, "all portions of a metropolitan area are interrelated with all other portions. Happenings in a subunit affect the lives of all persons in the metropolitan area."[3] For example, the flow of traffic, the spread of contagious disease, or the dispersal of air pollutants respect no artificial political boundaries. To have adequate control over these and other areawide problems, the ideal metropolitan government must include all the territory within its defined boundaries.

Flexible Boundaries. On the other hand, the boundaries of the metropolitan government must be flexible As metropolitan areas have developed and expanded in California so this growth is expected to continue. The California State Department of Finance reports that "in the 1940-50 decade, 82 percent of the State's population growth was recorded in metropolitan territory. During the past seven and one-quarter years this proportion has increased to 90 percent."[4] Another recent population study by Van Beuren Stanbery projects a population increase from California's present estimated 14,752,000 to approximately 20,000,000 by 1970.[5] By past indications, metropolitan areas will receive a major share of this growth. This population growth expands the metropolitan community and the community in expanding takes its problems with it. This being the case, the jurisdictional limits of the metropolitan government must also expand, or the original condition of the area of jurisdiction not fitting the area of the problem will be recreated. Therefore, provisions for expansion of the metropolitan government boundaries through annexation of additional territory are needed for the ideal metropolitan government.

Governmental Operations

Not only must the metropolitan boundaries be defined so as to provide for areawide jurisdiction, but the ideal metropolitan government must also have full control over those areawide functions assigned to it

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[2] John C Bollens, *The States and the Metropolitan Problem* (Chicago Council of State Governments 1956), p 17

[3] Samuel E Wood, "Metropolitan Problems and Solutions" (paper read at meeting of the American Institute of Planners, Northern California Chapter, Modesto, California, October 5, 1957), p 1

[4] California, Department of Finance, Budget Division, Financial Research Section, *Population of California Areas and Counties in 1957* (Sacramento State Department of Finance, 1957), p 2

[5] Van Beuren Stanbery, *Projected Growth of the Bay Area* (San Francisco: San Francisco Bay Area Council, 1957), p. 6.

with sufficient authority and the proper administrative organization to perform its responsibility.

Functions and Powers. It is the prime purpose of the metropolitan government to perform areawide services. This is why such a unit of government is even considered. The decision as to which governmental services are proper functions of traditional local governments and which are more properly performed by a metropolitan government is a political one. Further, each metropolitan area will present a different configuration of problems, areas, and service needs. This topic of the assignment of functions to the metropolitan government will be discussed below as an element of political feasibility. Let it be assumed, for present purposes, that when the area of a service need reaches beyond local government boundaries toward metropolitan area proportions it will be assigned to the metropolitan government.

It is to be emphasized at this point that it is of major importance to the ideal metropolitan government that it have sufficient authority to perform those functions assigned to it. Victor Jones, Professor of Political Science at the University of California in Berkeley, described what is regarded as proper authority for implementing a metropolitan government in roughly these terms: A metropolitan government should be powerful enough to do what we want; limited enough not to do what we do not want.[6]

Aside from whatever powers or limitations that are built into the metropolitan government, when a function is assigned to that government full control and necessary authority for the successful performance of that function must also be assigned. Full control is necessary in order to prevent the possibility of other agencies hindering or abating the performance of that function. The metropolitan problem itself is the best example of the lack of full control by any agency over any one function. In addition, the placing of full control in the hands of one agency makes possible the pinpointing of responsibility for successful or unsuccessful performance of the function.

It is a principle of public administration that when responsibility for a task is assigned the authority necessary for performing that task must also be assigned. Responsibility without authority is like giving a child a book of paper cutouts and keeping the scissors. Various functions require different degrees of power and authority so it is not possible to outline specific powers without reference to specific functions For example, the responsibility for metropolitan trafficways calls for some use of the power of eminent domain; the responsibility for metropolitan health and sanitation calls for the use of certain police powers. Each function assigned to the metropolitan government must be assessed and the corresponding authority or power must be assigned.

Administrative Organization. The ideal metropolitan government must have a sound administrative organization so that once given a function and the corresponding authority it may effectively discharge its responsibility. The administrative organization of a governmental unit is the structure through which the personnel, equipment, and activities of that unit are co-ordinated for the performance of governmental operations. If the organization is inappropriate or insufficient

[6] Victor Jones, "Metropolitan Government," (an address delivered at a meeting of the American Institute of Planners, Northern California Chapter, Modesto, California, October 5, 1957).

to the performance of one or another of its task, then it cannot effectively discharge its responsibility of providing governmental services.

Because of the importance of the administrative organization to the provision of governmental services, the administrative branch of the metropolitan government should be placed in the hands of a trained, full-time executive The executive should be appointed by and be responsible to the legislative body of the metropolitan government. Such a suggestion is based upon the established trend of the use of this type of arrangement in California cities, known as the council-manager form of government.

> The trend towards council-manager government is easily the most significant recent development in California city government. It is being fostered by the intensification and multiplication of problems confronting councilmen in rapidly growing cities. These local legisaltors * * * feel compelled to delegate administrative planning and duties to a professional administrator hired by and directly accountable to them It is then the manager's responsibility to unify the personnel and departmental programs and policies in order that the various parts of the city government may work harmoniously toward accomplishing the program determined by the council.[7]

Presently over half of the cities in California are using the council-manager form.[8]

In several of the 58 California counties there exists an arrangement which is similar to the council-manager arrangement in cities.[9] In these counties a county manager or executive is the chief administrative officer and is responsible to the board of supervisors for the efficient administration of the affairs of the county under his jurisdiction.

Aside from its actual successful use over many years by local governments in California, the council-manager arrangement has certain attributes which cause it to be a most acceptable device for obtaining effective administration. The legislative body presumably does not interfere with the administrative functions of the executive. The council deals with administration only through the executive and does not delegate the authority elsewhere It is required of this arrangement that the executive's authority be commensurate with his responsibilities; and his responsibilities generally include: enforcement of all laws and ordinances; control over all departments, including the power to supervise, appoint, and remove department heads and employees in accordance with civil service regulations; making recommendations to the legislative body concerning affairs of government, including future needs and present financial status; preparation and submittal of annual budget; keeping public informed through reports to the council, regarding governmental operations; and, the performance of other duties as required by law.[10]

The legislative body, nevertheless, has the power to appoint or remove the executive from office. This means that he is placed in office on his

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[7] John C. Bollens and Stanley Scott, *Local Government in California* (Berkeley: University of California Press, 1951), pp 28-9

[8] *Municipal Year Book*, Vol 24, 1957 (Chicago. The International City Managers' Association, 1957), pp. 17, 498.

[9] Winston W Crouch, et al, *State and Local Government in California* (Berkeley: University of California Press, 1952), pp. 175-82

[10] John C Bollens and Stanley Scott, *op. cit.*, p. 23.

ability and experience to administer governmental operations and not on his ability to get votes. Also, he remains in office as long as he is able to perform his responsibilities to the satisfaction of the legislative body.

In summary, those functions assigned to the metropolitan government must be assigned completely to that level of government with sufficient authority to permit their performance. In addition, the administrative organization of the metropolitan government must be such as to provide for the effective performance of its functions. The best way to obtain this necessary administrative organization is to provide for a council-manager type of arrangement.

Financial Support

Metropolitan government, like any other kind of government, requires financial support for the performance of its services. The ideal metropolitan government, with adequate boundaries and administrative organization, would still be nothing without the financial wherewithal to do its job. That is, given all other elements, the metropolitan government must also have adequate financing to perform its functions. That amount which is considered adequate, of course, is dependent upon what services are performed and to what degree. "It is to be remembered * * * that the needs of governments for funds are not independent of the demands of citizens for public services."[11] Since demand for services will vary from one metropolitan area to another, no one specific amount can be determined as being adequate. It is necessary, however, to establish from what sources and in what manner the necessary funds should be made available to metropolitan governments

It is noted that these questions of source of money and method of financing are also political questions. One method of financing versus another is a matter which could determine the political feasibility of the metropolitan government. Nevertheless, in the attempt to categorize these elements it was determined that to provide adequate funds for the operation of the metropolitan government was of prime importance. If the arrangements for financial support are reasonable, conceivably they also may be politically acceptable.

Source of Funds. As pointed out earlier, a major factor contributing to the metropolitan problem is the "lack of area-wide governmental jurisdictions that can effectively provide and *finance* services. * * *"[12] Now, given an area-wide governmental jurisdiction that can provide area-wide services, how are the services to be financed? Betty Tableman rightly points out that "since the problems are area-wide, the responsibility for financial support of solutions must also be area-wide."[13] Therefore, all residents of the metropolitan government should support its services.

In addition to this internal area-wide support, other sources of funds should not be overlooked. Local governments in California presently receive various loans and grants-in-aid from the State and Federal Governments. This has particular significance in regard to state funds and their use by metropolitan area-wide governments Since a metropolitan government must be authorized and, hence, recognized by the

[11] Carl H Chatters, et al, *Financing Metropolitan Government* (Princeton, Tax Institute, Inc, 1955), p. 262

[12] Bollens, *op cit*, p 17

[13] Betty Tableman, *Governmental Organization in Metropolitan Areas* (Ann Arbor: University of Michigan Press, 1951), p. 9.

State as a unit of government, it is reasonable such recognition will provide a basis for the use of state funds. The amount of federal and state financing available, however, will vary from area to area. Also, regardless of the availability of funds from state or federal sources, the bulk of the metropolitan funds will and should be provided by the recipients of its services.

Method of Financing. It is suggested that the metropolitan government develop a system of property taxation and other revenues as a method of financing its services. Aside from the property tax the metropolitan government could use service charges and fees, and special assessments. It is possible that other sources may be devised but at the present time these are considered the major sources. City and county governments in California presently derive 30 to 40 percent of their annual income from the property tax. The balance consists of many sources, including service charges and fees and special assessments. A large portion of the income of several cities comes from the operation of city owned public service enterprises such as transit lines, air terminals, and public utilities.[14] It is possible that a metropolitan government could obtain funds through the development and operation of one or a combination of these enterprises.

The actual use of one or a combination of revenue sources will vary from one metropolitan government to another, depending upon the number and type of services to be performed. For example, some services such as rapid transit may be largely financed by a service charge to the user in terms of a passenger fare. It is difficult to determine a service charge for some other services such as air pollution control. Such services could be financed by a property tax. The special assessment could be used to finance either a one-time service or to place the cost of a particular service appropriately on that portion of a metropolitan community receiving the direct benefit therefrom.

In some cases it may not be necessary for the metropolitan government to devise its own tax and revenue system. In those cases where a metropolitan government completely includes several counties, it is possible that the metropolitan government could simply apportion the amount of its annual budget among its member counties. Such a method is presently being used as a means of financing the services of the Bay Area Air Pollution Control District, which includes nine bay area counties This is a single function district, however, and is supported solely by a property tax. In the case of a multi-purpose district utilizing this method it would seem more reasonable and equitable not to place a great and varied burden solely on the property tax source. For example, even though such a district may apportion its budget among its member counties wholly or partially in terms of property value, the apportionment need not be met by a property tax but may be appropriated from whatever available revenue source or sources such county chooses. It is felt the inclusion of such a feature in a metropolitan government proposal would not only provide adequate operational funds but would also make for greater acceptability.

Whether or not the metropolitan government collects its own revenue or apportions its annual budget to the component local governments, it

[14] Cf., California, Office of the State Controller, *Annual Report of Financial Transactions Concerning Cities of California* (Sacramento: State Printing Office, 1957).

is necessary that the metropolitan government be equipped with the power to raise its funds. Without this fiscal power it would not be, by definition, a unit of government. More important, without the ability to obtain funds for support of its services from those whom it serves, the metropolitan government would be unable to provide a uniform and consistent level of services, if any at all. Also, the metropolitan government would exist and function at the mercy of those agencies which did provide funds. It would be possible for such agencies to pervert the areawide basis of the metropolitan government by requiring special services to their section as contingencies to their support. It is therefore essential that the metropolitan government have the power to require the beneficiaries of its services to support their equitable share of the cost of those services.

In addition to funds for day-to-day operations, certain additional funds will be required from time to time by the metropolitan government for major improvement or new construction programs. Depending upon the functions assigned to the metropolitan government certain large articles of equipment as well as major facilities may be needed for the performance of those functions. Such equipment and facilities are likely to call for the expenditure of great sums of money but, once provided, may then be maintained by smaller annual appropriations. To provide the financing necessary for such projects, the metropolitan government should be equipped with the power to issue and redeem revenue bonds for appropriate projects as well as the power to submit for voter approval the issuance of general obligation bonds.

On the other hand, debt limitations should be placed upon the metropolitan government to prevent unnecessary and/or over borrowing. Unlimited power to obtain funds is likely to cause misdirection and waste in the expenditure of the funds obtained. It is suggested that debt limitations be devised for the metropolitan government the same as is done for other California local governments—on the basis of a determined percentage of the assesed valuation of the property within the governmental unit. Such a limitation should be tempered to the functions to be performed and the estimated magnitude of their cost.

B. POLITICAL FEASIBILITY

The ideal metropolitan government must be politically feasible. It must be generally acceptable to the residents of the metropolitan community as a system of government Given that a metropolitan government is necessary for the solution of the metropolitan problem and that such a government has been devised that is structurally and financially adequate, it still may not be established because it is not acceptable as a system of government.

Public Acceptance

The political feasibility of a metropolitan government is essentially based upon public acceptance. In the United States, government is instituted and operates by the consent of the governed. Therefore, if a system of government does not meet with general public approval, it will not be established. Two elements which are most basic to public acceptance are (1) the system of government allows for adequate representation of the people and (2) permits ultimate control by the people through popular election procedures.

Adequate Representation. Democratic government in the United States is partially provided by the people expressing their wishes through elected representatives. These representatives form the legislative body of the unit of government and in this capacity they determine the major policy of the government. Such representative government is the established and accepted method in California in city, county and state levels of government. It is therefore an essential element for public acceptance of the ideal metropolitan government.

It is necessary to establish at this point the basis for representation in the metropolitan government. The basis for representation is as important to the feasibility as the matter of representation itself. How shall the governed be represented in the legislative body so as to assure public acceptance? The method of representation on the basis of population could be used. That is, one representative for every equal amount of population. This method is used in constituting the Assembly of the California State Legislature. It is acceptable also to elect a specified number of representatives regardless of population. This is a method used to constitute city councils in California. Another possible method is to form the metropolitan governing body by having the governing bodies of its component city and county governments select representatives from among their members. This would result in a type of federation of the existing local governments.

This latter basis is presently being used to form the district governing board of the Bay Area Air Pollution Control District, a metropolitan special district which includes all the nine counties of the San Francisco Bay metropolitan area. Presently six of the nine counties are activated as participating members of the district with the following method of representation:

> The district governing board consists of two representatives from each county area within the "activated" portions of the district. One member of each pair is a county supervisor, chosen by the county board of supervisors. The other representative is a city mayor or councilman chosen by a "city selection committee" made up of mayors of all the cities within the county.[15]

This provides for a 12-man governing board (18 men with all nine counties participating) which is essentially representative of the people in the area. This method, or any one of the three mentioned, could be utilized in providing for the governing body of the metropolitan government.

Popular control. The American democratic form of government based upon the consent of the governed places ultimate control of the government in the hands of the people. This is accomplished by providing for popular voting procedures as well as by such devices as the initiative and referendum. Popular control of government is the established and accepted method of state and local government in California. This element is therefore essential for inclusion in a California metropolitan government proposal to assure public acceptance.

First, there is the popular election of representatives. The methods

[15] Stanley Scott, "The Problem of Organizing for Regional Planning and Other Area-wide Functions in the San Francisco Bay Area" (a report presented at a public hearing of the subcommittee on Planning and Zoning of the Assembly Interim Committee on Conservation, Planning, and Public Works, held in San Francisco, December 7, 1956), p. 4.

outlined above for obtaining adequate representation conform to this principle. The representatives are popularly elected and do represent their constituents. Even the method used by the Bay Area Air Pollution Control District conforms to this principle. The local legislative bodies directly representative of the people within their defined boundaries individually and/or jointly select one of their members to represent them, the local government, to a governing body representative of a larger area.

Then there is the expression of the will of the people through the election process on basic governmental issues. The metropolitan government must provide this device of democratic government, including the processes of popular initiative and referendum In fact, it is through the device of the general election that any particular metropolitan government is expected to be established.

Local Autonomy

Local autonomy is another element important to the consideration of the political feasibility of a metropolitan government. To be acceptable, the ideal metropolitan government must contain basic provisions which preserve and maintain a high degree of local autonomy An excerpt from a report by the Commission on Intergovernmental Relations of the Federal Government clarifies what is meant by local autonomy and establishes its importance to our present form of government This report points out that our present federal system of national government,

> * * * has preserved a degree of local autonomy unmatched among the world's other great powers. The states make their own constitutions, and the laws that govern elections, crimes, property, contracts, torts, domestic relations, and the like. Most states in their turn have tended in practice to establish a virtually federal division of powers between themselves, their counties, and their municipalities. This autonomy has kept under local controls most of the schools, the police, the ordinary administration of criminal and civil justice, the local taxes, and the provision of most municipal services It has kept in local hands also the machinery of elections and with it, in the main, the control of the party system. * * * It has made possible a large degree of popular participation and consent.[16]

Local autonomy means essentially, then, that each level of government has a relative amount of self-determination. Along with this there is also an amount of local pride for and identification with a community on the part of its members If a metropolitan government is to be accepted by these people, it must neither damage the local government's ability to do for itself nor threaten the status of a community. It is the desire for local autonomy on the part of communities and fringe areas which has caused the rejection of proposed solutions to the metropolitan problem that call for a total loss of, or a great reduction in, local autonomy such as annexation and consolidation.

While respecting the importance of local autonomy to public acceptance of the metropolitan government, it is nevertheless necessary

[16] The Commission on Intergovernmental Relations, *Report* (Washington: Government Printing Office, 1955), p. 34.

to establish that certain functions are to be assigned to the metropolitan government thereby denying strictly local control of these functions. This is the main reason for the creation of a metropolitan government—to provide for area-wide control of area-wide problems. That is, those problems which the component local governments are unable to handle effectively.

The assumption of area-wide functions by the metropolitan government is not the limiting action upon local autonomy that it might appear to be. What is called for is a broadening of the local autonomy concept to include the metropolitan government, at least for those functions performed by it. It has been stated from a slightly different angle that in metropolitan communities,

> Local governmental autonomy can have justification—and, ultimately, validity—only as it is accompanied by responsibility—a realization by the individual municipality, government and people, of being an integral part of an intercommunity composite, with an acceptance of obligations based on that relationship. And the primary obligation is that of acceptance of some limitation of freedom of action in the interest of the greater good.[17]

Local Functions. To preserve the requisite degree of local autonomy to component communities of the metropolitan government it should be provided that, upon institution of the metropolitan government, these governments shall continue as before, except for whatever function or functions that have been or may be assigned to the metropolitan government. In other words, all functions and activities the local governments are legally empowered to perform shall remain at that level except as specifically assigned to the metropolitan government. This local autonomy would apply primarily to counties and municipalities, since the adoption of a multipurpose metropolitan district would deprive a number of existing special districts of all justification for continued existence.

Metropolitan Functions. On what basis, then, are activities or functions assigned to the metropolitan government? For what reasons may the residents or local governing bodies of the metropolitan community wish to delegate functions to the metropolitan government? Victor Jones presents several criteria:

> (1) when co-ordination of a function over the whole area is essential to effective service in any part of the area; (2) when it is desired to apply the ability theory of taxation to the area as a whole, instead of allowing each part to support its own services; (3) when the advantages of large-scale operations are desired; or (4) when it is necessary to assure citizens of a voice in decisions which affect them at their places of work and recreation as well as at their places of residence.[18]

Further, any function should be assigned the metropolitan government by an expression of general consent, either by the residents of the entire area or their representatives The assignment of functions should be

[17] Hugh Pomeroy, "Local Responsibility" (an address before the National Conference on Metropolitan Problems, East Lansing, Michigan, April 29, 1956).
[18] Victor Jones, *Metropolitan Government* (Chicago: The University of Chicago Press, 1942), pp. xxi-xxii.

possible not only at the same time that the metropolitan government is established but also at any later time as the need develops.

Additional Level of Government

It would appear incongruous that, in the attempt to solve a problem largely resulting from multiple and overlapping units of government, another unit of government should be established. It is therefore considered best, when attempting to establish a metropolitan areawide jurisdiction, not to create an additional level of government. This is particularly so if there is an existing unit of general government already capable of assuming areawide control, such as a county government. Nevertheless, for consideration of political feasibility it is often desirable to create an additional level of government to perform metropolitan functions, and the existence of an intercounty metropolitan area also may require that an additional level of government be established. In either case the addition of another level of government can serve to simplify the governmental pattern within its jurisdiction. A limited federal type of governmental arrangement would establish an additional level of government that, while retaining the existing local governments, is representative of these governments.

Necessary and Desirable. It is clear that the areawide problems existing in the metropolitan community complex call for solutions on an areawide basis. It is also recognized that the best way to provide for such areawide solutions is by a unified areawide jurisdiction. In metropolitan areas which contain the territory of more than one county there is no one general unit of local government available to provide for areawide jurisdiction. There is presently no way in which two or more California counties can formally combine to establish any degree of metropolitan areawide jurisdiction. In these cases it is necessary to establish an additional level of government.

Based on the discussion presented earlier concerning the importance of local autonomy to political feasibility, it is evident that whatever the form of a metropolitan government its acceptance will be measured by its retention of existing local governments. Further, it is known that proposals for a metropolitan areawide government calling for structural reorganization meet extensive opposition since,

> Any proposed change in governmental structure must contend with people's habitual ways of thinking, which are particularly rigid when it comes to government. Legal forms acquire rightness and an immovability stemming solely from long existence. In addition, certain groups who receive an advantage under the present structure have an interest in its continued existence.[19]

To aid its acceptance and allow for political feasibility, then, it is desirable that the metropolitan government be another level of government which would allow for continuance of the existing local governments.

In either case, whether necessary or desirable, an additional level of government can simplify the governmental pattern within its jurisdiction. It is noted that,

> The desirability of organization that provides for creation of a metropolitan unit and retention of a local level of government

[19] Tableman, *op. cit.*, pp. 136-7.

> does not mean that it is advisable to preserve all existing local governments in every metropolitan area.[20]

This has particular implications for the dissolution of certain special districts. Once a metropolitan areawide jurisdiction has been established which performs certain functions on an areawide basis, the special districts performing identical functions would be no longer necessary. Such special districts may be dissolved. The addition of another level of government, then, would actually reduce the number of governmental units in the metropolitan area, thereby simplifying the governmental pattern.

Limited Federal Type. It was pointed out as a requisite element for the structural adequacy of the metropolitan government that for effective solution of areawide problems, the entire metropolitan area needs to be formally organized and co-ordinated under a unified areawide government. Political feasibility requires that the existing local governments, except for a number of the special districts, be retained. Also for political feasibility, the metropolitan government form must permit a high degree of local autonomy for the existing local governments and, therefore, should be limited in its functions and powers. To meet these requirements, it is suggested that the metropolitan government be created on the order of a limited federal type of government. Under this type, existing local governments could be retained and at the same time could combine in some manner for representation in the metropolitan government.

Such a form is that described earlier in which the city and county governing bodies select representatives from amongst their members. These members would represent the residents of their local jurisdictions, since to speak for the local government is to speak for the residents thereof. The essential result would be a limited federal type of government which would assure adequate expression of local views and desires in the determination of metropolitan areawide governmental policy.

In summary, there are two basic reasons why metropolitan government proposals are rejected: structural inadequacy and lack of political feasibility. The following elements are most essential to the structural adequacy of a metropolitan government: areawide jurisdiction, which calls for adequate coverage of the area in question with an allowance for the flexibility of areal boundaries as the need requires; the allocation of sufficient authority and the creation of a proper administrative organization to allow for the effective performance of the functions assigned; and, adequate financial support to provide for the activities of the metropolitan government The political feasibility of a metropolitan government rests essentially upon public acceptance. To obtain public acceptance the metropolitan government must: be a representative government which allows for ultimate control in the hands of the governed; be able to perform its assigned functions while preserving a high level of local autonomy to its component local governments It is necessary and/or desirable that the metropolitan government be an additional level of government. It is suggested that a limited federal type of government would best allow for the elements essential to public acceptance.

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[20] Bollens, *op. cit.*, p. 134.

CHAPTER III

DEVELOPMENT OF THE METROPOLITAN MULTIPURPOSE DISTRICT

A review of metropolitan government devices outlined in various studies of metropolitan areas was a phase of the initial research in the development of this study. It was found that there are several methods available by which to integrate metropolitan areas to bring the area under one areawide government. These methods include: annexation, the absorption of territory by an existing government; contractual arrangements and extraterritorial powers, the extension of governmental services beyond a government's boundaries; federation, the joining of several governments under a new level of government; city-county consolidation, the merging of two units of government into one; and, city-county separation, which merely removes the county unit of government from within the city. All such methods appearing in the literature since the pioneer study of Paul Studenski [1] in 1930 were summarized by Daniel R. Grant, as quoted in the introduction of this study, "those 'solutions' which are adequate are not politically feasible and those which are politically feasible are not adequate." [2]

In a study by John C. Bollens in 1956, however, two of these methods have been reconsidered favorably while another method not mentioned has been presented [3] At the conclusion of his study of the metropolitan problem, prepared for the Council of State Governments, Mr Bollens outlines a suggested program for the states as a means of solving the metropolitan problem Step number one suggests that the states,

> Establish legal authorizations for the creation of general metropolitan units that can be adequate in functions, financing ability, and structure. These units may be of one or more of three types: metropolitan multipurpose district, federation, and urban county.[4]

Of these three types of governmental units, one seems to be most favorable for use in California—that of the metropolitan multipurpose district.

The primary basis for this conclusion is the intercounty status of California's metropolitan areas. Presently, four of the nine metropolitan areas in the State include all or part of two or more counties [5] With the population growth expected for California in the next 10 to 12 years,[6] it will only be a matter of time before the remaining five metropolitan areas, or any new ones, grow beyond the boundaries of a single county.

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[1] Paul Studenski, *The Government of Metropolitan Areas in the United States* (New York The National Municipal League, 1930).
[2] Grant, *loc cit*
[3] Bollens, *op cit*
[4] *Ibid*, p 128
[5] See Table I
[6] *Cf*, Van Beuren Stanbery, *Projected Growth of the Bay Area* (San Francisco: San Francisco Bay Area Council, 1957), p 6

Federation and, particularly, the urban county approach are extremely difficult to apply in intercounty metropolitan areas. In addition, both involve structural reorganization of existing governments which generally meets strong public opposition thereby reducing their political feasibility.

> Federation involves comprehensive governmental reorganization since it adds a general metropolitan unit, either eliminates one or more county governments or reduces their powers, and decreases the functions of municipalities * * * Federation plans occasionally have been cast in an intercounty framework, but in each instance the existing county governments that would have been replaced were relatively unimportant, and no state constitution guaranteed their continued existence.[7]

As for the urban county approach:

> * * * existing governments always would be transformed into metropolitan units. * * * In metropolitan areas that are intercounty * * * it is questionable whether two (and in some cases more) adjacent counties could work out a series of co-operative agreements sufficient in total to be adequate general metropolitan governments.[8]

On the other hand, *the establishment of a metropolitan multipurpose district does not necessarily involve major functional or structural reorganization or elimination of existing governmental units.* Also important, it is particularly suited for use in intercounty metropolitan areas, since "state laws can form the legal basis of districts whose territory lies in one county or in more than one county in one state. * * *"[9]

It is therefore the object of this chapter to provide the basis for the development of a multipurpose district for use in California metropolitan areas. Since a multipurpose district is merely a special district empowered to perform several and not necessarily related functions, an analysis of the *special district* as a governmental unit would provide a useful basis for developing a multipurpose district. An analysis of *metropolitan* special districts in particular would provide a basis for developing a metropolitan multipurpose district.

On the other hand, it is possible that not all features of regular and metropolitan special districts may be suitable for use in California's metropolitan areas, on the basis of the requirements for structural adequacy and political feasibility as presented in Chapter II. Then again, certain other features to satisfy these requirements may be entirely lacking. In any case, an analysis of the special district should aid in the adaptation of that form to the multipurpose district form for use in metropolitan areas by providing for the exclusion of undesirable features and for addition of beneficial features which may be lacking.

This chapter presents a review of the special district in California. It is based primarily upon a comprehensive study of the special district form of government in the United States by John C. Bollens,[10] and a

[7] Bollens, *op. cit.*, p. 135.
[8] *Ibid.*, p. 136.
[9] *Ibid.*, p. 134.
[10] John C. Bollens, *Special District Governments in the United States* (Berkeley: University of California Press, 1957).

study of the special district form of government in California by Stanley Scott and Mr. Bollens.[11]

A. THE SPECIAL DISTRICT IN CALIFORNIA

Special districts are created as a means of providing a needed service to a particular area. It is a unit of government established under a state enabling law for the purpose of administering specific functions of local government. The creation of a special district is usually instigated upon petition of a required number of qualified residents of an area feeling need for a particular service, or upon the action of the governing body of a unit of local government which includes the area. The actual establishment of the district is then supervised by the governing body of an appropriate level of government. Most often this is a county board of supervisors but sometimes a city council or the State Legislature.

It has been concluded by a State Assembly interim committee that "special districts are a necessary and essential part of California's governmental structure in that their use permits the rendition of special and needed services which cannot be, or are not performed by other governmental agencies."[12] At the same time, however, it was also established that "the number of existing districts * * * far exceeds that which is necessary or feasible from the standpoint of governmental economy, efficiency and simplicity."[13] It was estimated that in March, 1957, there were between 5,000 and 6,000 districts of all types in existence in California.[14] The nine metropolitan communities defined in this study contain almost 1,500 of these districts.

Relationship to Other Local Governments

According to Stanley Scott and John Bollens, special districts in California may be categorized into four major types: agricultural or rural districts represented mainly by irrigation and soil conservation districts, quasi-municipal districts providing various municipal services chiefly to unincorporated communities, metropolitan districts differing from quasi-municipal districts mainly by magnitude of size and population served, and school districts.[15]

John Bollens presents a further distinction among special districts on the basis of their dependent or independent status.[16] To clarify this distinction it is necessary to understand that a unit of government must contain, among other things, a substantial degree of autonomy and the power to raise at least a part of its own revenue. Independent special districts contain these features. Dependent districts, however, lack "sufficient fiscal independence or adequate administrative autonomy or both."[17] Dependent districts are so-called because of their dependence upon another governmental unit such as a city or county for financial and administrative directions and controls. "Furthermore, some have

[11] Stanley Scott and John C. Bollens, *Special Districts in California Local Government* (Berkeley: University of California, Bureau of Public Administration, 1949).
[12] *California, Legislature, Assembly Interim Committee on Municipal and County Government, Special Districts* (Sacramento: State Printing Office, 1957), p. 7.
[13] *Ibid.*
[14] *Ibid.*, p. 6.
[15] Scott and Bollens, *op. cit.*, pp. i-ii.
[16] Bollens, *op. cit.*, pp. 228-246.
[17] *Ibid.*, p. 228.

no governmental structure at all, but are simply areas delineated and administered by a governmental unit for the collection of special taxes or service charges."[18]

The discussion presented below concerns independent special districts primarily. Dependent districts are considered merely as extensions of existing city or county governments. School districts also are not included in this discussion due to their particularly specialized function and universal use. "There is no alternative type of organization which offers the same service."[19] The term "special district" when used below, then, refers to independent special districts, including rural, quasi-municipal, and metropolitan but excluding school districts.

Functions. A special district does not perform the number of functions that are performed by city and county governments. It is this feature which gives rise to their designation as "special" districts. These district governments are created to perform special functions. This feature also initially distinguishes the special district governmental unit from other units of local government The special district may perform only those functions authorized in its enabling legislation. In almost all special districts this amounts to one or a few closely related functions. On the other hand, city and county governments may perform various functions specified by general state legislation or their local governmental charter as necessary or permissible for complete and efficient administration of that unit of government. The functions performed by these general units of government are not necessarily related to one another.

Special districts in California are authorized to perform from one to eight particular functions, depending upon the type of district.[20] Most districts, however, provide only one or two services. Those providing more are the exceptions.[21] On this point it is interesting to note that the community services district legal authorization, which allows the greatest number of functions of any California special district authorization, has never been fully utilized. Of 14 community services districts activated between the time the enabling legislation became effective in 1951, and 1957 "none of them is performing more than a single function."[22] The community services district will be more fully discussed in the second section of this chapter.

In contrast to special district governments, city and county governments in California may perform several and various functions Traditionally, California county governments have performed the functions of law enforcement, property assessment, tax collection, road construction and maintenance. In recent years additional functions have been added as state and local interests have required These functions include public welfare administration, health protection, agricultural services, water conservation and flood control.[23] The functions performed by city governments are the most numerous and varied of those provided by local governmental units. It could be said that a

[18] Bollens, *op cit*, p 228.
[19] Scott and Bollens, *op cit*, p. 12
[20] Cf, California, Legislature, Legislative Counsel, *Analysis of California District Laws* (Sacramento: State Printing Office, 1954)
[21] Bollens, *op cit*, p 21.
[22] *Ibid*, p 111
[23] Winston W. Crouch, et al, *State and Local Government in California* (Berkeley, University of California Press, 1952), p. 166

California city may perform almost any function not in conflict with state or national laws.[24]

Boundaries. Where special districts are limited as to the number and kinds of functions they may perform, they are relatively unlimited as to the arrangement and flexibility of their boundaries. Special district boundaries may and do overlap or include in many cases any portion or all of the territory of another special district. Special districts also "* * * can in many instances cover a segment of or all the territory of other governments that are not special districts."[25]

One of the most outstanding characteristics of special districts is that they often cross city and county boundaries and include both urban and rural land.

> In contrast, no city may be situated on any portion of the territory of another city. Counties are also territorially exclusive of one another, as are townships, towns, states, and nations. A general government of one class, however, does sometimes overlap at least one of another class. Counties overlie the boundaries of cities in most states. * * * Nevertheless, the more general flexibility of special districts in relation to other types of districts and other classes of governments largely accounts for the overlapping of governments in the United States.[26]

Special district boundaries, once established, are more flexible than those of city or county governmental units. This is possible mainly because of the relative ease of annexation procedure.

> Annexation of additional territory to an existing district requires the consent of two parties: (1) the district, and (2) residents of the area to be annexed. Consent of the district is expressed through either a resolution of the governing body or an election. Consent of the annexed territory is given through either an election or petition.[27]

The annexation procedure for California cities is considered extremely complex—so complex as to discourage extensive use.

> The fact that there are hundreds of annexations each year in the State of California might be used by some as evidence that the law is not really severe. Most of these annexations, however, have been small, some involving only a few acres. They have been large in only one or two areas; they have failed to keep pace with urban growth in every major city in California.[28]

County boundaries in California have undergone a significant change only once since 1893, and then only to divide San Diego County into the Counties of San Diego and Imperial. This took place in 1907.[29]

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[24] *Ibid.*, pp. 185-201.
[25] Bollens, *op. cit.*, p. 25.
[26] *Ibid.*
[27] Scott and Bollens, *op. cit.*, p. 5.
[28] Public Administration Service, *The Government of Metropolitan Sacramento* (Chicago: Public Administration Service, 1957), p. 105.
[29] Owen C. Coy, *California County Boundaries* (Berkeley: California Historical Survey Commission, 1923), pp. 307-15.

Administration and Finance

The governing bodies of special districts are generally of two main types. In most districts the governing body consists of three to five members as specified in the enabling act. These members are either elected by residents of the district or are appointed by the governing body which supervised establishment of the district. In some larger districts, such as a metropolitan special district, the size of the district governing body may depend on the number of participating local governments. It is in these larger districts that the governing board is usually composed of selected members of the governing bodies of the constituent cities and counties. More will be said of these districts in the second section of this chapter.

Administrative Authority. Special districts possess both general governmental powers common to most all districts as well as other local governments and, specific authority for the performance of the function or functions for which the district was established.

> The complement of general powers is substantially the same for all districts: the right of succession; the power to make contracts; to sue and be sued; to acquire and dispose of personal or real property; to tax and float bond issues; and to hire employees. Other general powers which may be given, depending upon the nature of the district, are the right of eminent domain, and the adoption of ordinances whose violations are punishable by law.[30]

Authorizations for specific district functions vary with the type of district. For example, levee districts have the authority to protect lands from overflow by erection of levees, dikes, and other works. Municipal utility districts have the powers necessary to supply light, water, power, heat, transportation, telephone services, or other means of communication, and means for collection or disposition of garbage, sewage or refuse matter.

Methods of Financing. Special districts, in general, have limited powers for the obtaining of revenue. Most districts rely heavily on the property tax for operating expenses and general obligation bonds for long-term finances, while "some districts are forced to depend exclusively on service charges for current financing and on revenue bonds for long-term financing."[31] It is noted particularly that "few if any districts may tap the diversified tax sources to which a California city or county has access."[32] Several types of special districts do not have authority to float any kind of bonds

Not only are special districts limited to certain sources of funds, the amount of funds from any source is also limited. This is accomplished by specifying maximum allowable rates of property taxation and placing debt limitations on the amount of outstanding bonds. Both limitations are keyed to the assessed valuation of taxable property in the district. The tax rate limitation is stated as so much per $100 of assessed valuation of taxable property held by each district taxpayer. The debt limitation on outstanding bonds is stated as a percent of the total assessed valuation of all taxable property within the district.

[30] Scott and Bollens, *op cit*, p 4.
[31] California, Legislature, Assembly Interim Committee on Conservation, Planning and Public Works, *Adapting Government to Metropolitan Needs* (Sacramento State Printing Office, 1957), p 27
[32] *Ibid*

Adapting the Special District Device

On the basis of the elements presented in Chapter II as essential for an adequate and acceptable metropolitan government, the special district governmental unit will be analyzed to determine the possibility of adapting it directly to a multipurpose district form for use in metropolitan areas. Those features which appear most adaptable or favorable will be discussed first. Those features appearing less favorable will then be discussed with a consideration of changing or disregarding such features for use in a metropolitan multipurpose district.

Favorable Features. One of the most favorable features of the special district device is that of the establishment of boundaries. Special district boundaries may be established to include any particular area regardless of other existing governmental unit boundaries. This feature alone places the special district device above all other devices designed to integrate a metropolitan community under one jurisdiction. District boundaries may cross county boundaries, thereby being the only method aside from federation that may be utilized in intercounty metropolitan areas. District boundaries may include all or any portion of several counties, thereby being the only method existing able to establish boundaries which could truly conform to actual metropolitan community boundaries. Metropolitan community boundaries rarely conform to established city or county boundaries (see Map A). This feature should be retained in adapting the special district device to a metropolitan multipurpose district since it would allow for the essential element of area-wide jurisdiction.

The method of creating a special district is another favorable feature of this device. The most important part of this feature is that it is made possible under a state enabling act. An act of the State Legislature authorizes the establishment of a particular kind of district. This act generally outlines organization procedures, selection of the governing body, functions, and the necessary powers and limitations. To make available a metropolitan multipurpose district for California, all that would be necessary is an act of the State Legislature authorizing the establishment of such a district. The metropolitan multipurpose district as authorized then could be considered for use in a metropolitan community either upon petition of the residents of the area or upon action of the legislative bodies of the local govermental units concerned. Upon proper consideration of the district proposal for possible use in the area and the ascertainment of the specific features of the district best utilized in the particular area, the proposed form would then be submitted for final approval and activation by means of a general election throughout the area involved. This method of creating a special district should be adapted for use in a metropolitan multipurpose district.

By adapting this feature, the metropolitan multipurpose district could well be the only method of creating a metropolitan government for use in California that could be made available simply by an act of the State Legislature. It is probable that all other methods presently require a constitutional amendment, which is considered a much more difficult procedure. Once authorized by legislative act, the metropolitan multipurpose district could be activated as soon as organizational procedure requirements have been met and actual establishment of the district approved by the residents of the area.

One of the most essential elements to the establishment of a metropolitan government, once structural adequacy has been assured, is public acceptance. It has been noted that:

> The special district is politically feasible. It is easier to establish a special district than to effect annexations or to consolidate existing governmental units. Creation of a new unit of government does not bring vested loyalties into play.[33]

The special district device, if utilized as a basis for establishing a metropolitan multipurpose district, will not abolish or appreciably alter existing city and county governments.

It is also noted that public acceptance of the district idea "has not appreciably lessened" when a number of functions have been made available under certain special district forms.[34] This point will be discussed further in the section concerning metropolitan special districts Still, it is important to emphasize here that the special district structure is politically feasible, and it is likely that this acceptability will remain if the device is used as a basis for creating a metropolitan multipurpose district.

Unfavorable Features. One unfavorable feature of the special district device relates to the restricted functional nature of almost all special districts. Special districts are created for only one or a few related functions. This leads to a multiplicity of special districts in any one area as necessary to provide the needed services.

> As presently used, the district approach lacks sufficient comprehensiveness to deal with the general metropolitan problem. Its limited functional nature leads to further proliferation of governmental units, to more widespread citizen confusion and to inadequate popular control of the governmental system [35]

It is primarily this feature of limited function which has suggested the modification of the special district governmental unit to a multipurpose one. If the special district device were adapted as a multipurpose district by increasing the number of functions that a district may perform, the number of districts could be reduced. This would increase the comprehensiveness of the district device and thereby avoid the unfavorable result of multiple governments.

Another disadvantage of the special district approach relates to the traditional independence of special districts. "Not only are special districts independent of one another, but also many of them are relatively independent of the other local governments." [36] This independence presents the problem of co-ordination with other governmental units for effective handling of areawide problems. This difficulty of co-ordination between districts may be alleviated by the creation of a metropolitan multipurpose district. The necessity for several independent districts would then be decreased. Co-ordination between the metropolitan multipurpose district and other local governmental units may

[33] Betty Tableman, *Governmental Organization in Metropolitan Areas* (Ann Arbor. University of Michigan Press, 1951), p 74.
[34] John C Bollens, *The States and the Metropolitan Problem* (Chicago Council of State Governments, 1956), p. 123
[35] *Ibid*, p. 122.
[36] California, Legislature, Assembly Interim Committee on Conservation, Planning and Public Works, *op. cit.*, p. 26.

then be achieved by allowing the governing body of the district to be composed of members representing the constituent cities and counties of the metropolitan community or by members directly representing the people of the area. With the exception of these two unfavorable features the special district device appears to be an acceptable and adequate basis for the constitution of a metropolitan multipurpose district.

B. SELECTED SPECIAL DISTRICT FORMS

Whereas the preceding discussion and analysis concerned California special districts as a general class of governmental unit, this section will discuss and analyze two particular kinds of special districts. These districts are the community services district, of which several are in existence, and the metropolitan special district, represented here by the Bay Area Air Pollution Control District These two kinds of districts were selected for presentation not only for a discussion of their particular features pertinent to the adaptation of a metropolitan multipurpose district from the special district device, but also to illustrate that the development of the special district device has been proceeding in this general direction.

Metropolitan Special Districts

Before proceeding with the discussion of the selected special district forms, it would be helpful to define and clarify what has become known as a metropolitan special district and outline any pertinent differences between ordinary special districts and metropolitan special districts.

General discussion. A metropolitan special district has been defined as "a special district whose territory covers a substantial part or all of a metropolitan area." [37] This is clarified by a more descriptive definition: "A number of special districts may be classified as metropolitan districts by reason of their large-scale operations, and because their services cut across numerous local governmental boundaries." [38] These metropolitan special districts include one or more cities as well as unincorporated areas. Some include one or more counties

One important difference between metropolitan districts and regular special districts is that the formation requirements are somewhat less stringent. More discretion and power for initiation and organization of the metropolitan district is given to the cities and counties which are to be included, where with most regular special districts the procedure must be initiated by a petition of the residents. With metropolitan special districts, for example:

> Formation of a metropolitan water district is initiated by resolution of any city council, and is established by election in all municipalities whose councils have approved the resolution. * * * A metropolitan fire protection district may be originated by any city council or county board of supervisors, and approved by the governing bodies of other cities or counties to be included.[39]

[37] John C Bollens, *The States and the Metropolitan Problem* (Chicago: Council of State Governments, 1956), p 52.
[38] Scott and Bollens, *op cit.*, p 24.
[39] *Ibid*, p 25

Another significant difference between the metropolitan and the regular special district is the matter of governing bodies. In several cases, the governing body of the metropolitan district is composed in such a way as to represent the governing bodies of the member agencies. This is so for the Bay Area Air Pollution Control District, as was shown earlier. Another example is that of the Metropolitan Water District of Southern California. Members of its governing body are appointed by the executive officers of the participating agencies, which in this case are 13 cities and two other water districts. This district covers a three-county area.

Adaptable Elements. Aside from the two outstanding differences discussed above, the metropolitan special district is essentially like any ordinary special district expanded to include one or more cities and one or more counties On this basis those elements considered favorable or unfavorable for adapting the ordinary special district to a metropolitan multipurpose district should also bear the same relationship in the case of the metropolitan special district.

However, one feature considered unfavorable for adaptation in the case of the ordinary special district may not be operative in the case of the metropolitan special district. The independence of the special district from the necessity of co-ordinating its activities with other local governments was deemed an unfavorable feature. An alternative to this feature was proposed which would alleviate this difficulty. Co-ordination of activities could be provided for in the multipurpose district by the representation of existing local governments in the governing body of the district. Such is presently provided for in several metropolitan special districts.

As the metropolitan special district removes an unfavorable feature of special districts in general, it adds another. This added unfavorable feature concerns the fact that under most metropolitan special district enabling acts,

> * * * the pre-existing local governments vote as units either to be included or to remain outside the organization. The effectiveness and the regional nature of the district planning and operations may be impaired if certain areas elect not to join.[40]

One way to avoid this possibility without removing the veto power allowed local governments in the district establishment procedure is to exercise care and foresight in performing the studies and community activities preparatory to establishing the district. The feature allowing for local government representation in the district governing body also alleviates the danger of certain local governments choosing not to participate. Actually, however, the decision whether or not to establish the metropolitan government would be based on the results of a general election as discussed in Chapter IV.

Nevertheless, the outstanding advantage of the special district device for use in solving areawide problems is still contained in the metropolitan special district. As it has been expressed elsewhere:

> The chief advantage offered by this type of organization lies in its ability to cross established governmental boundaries, and thus

[40] *Ibid.*, p. 27.

to provide a local governmental unit whose territory can coincide with the area needing its service [41]

Since unfavorable features of the special district approach may be removed or alleviated without damaging this all-important advantage, the major objective now is to devise a district governmental unit which may perform not one or a few related functions but all functions possible and necessary to be performed on an areawide basis. This would result in a single multipurpose areawide governmental unit, which would aid in the solution of the metropolitan problem. Not only would such a governmental unit be able to handle areawide problems in co-ordination with the existing local governments but it would also reduce the need for a multiplicity of governmental jurisdictions in the shape of special districts. The following sections of this chapter attempt to illustrate the movement in California towards a multipurpose as well as an areawide district as a metropolitan government device.

Community Services District

The Community Services District Act was passed by the California Legislature in 1951 This law authorizes the creation of multiple service special districts as a means of providing municipal type services to unincorporated areas. A district created under this law may perform any or all of the following functions for its inhabitants: water supply, flood control, sewage and garbage disposal, fire protection, public recreation, street lighting, mosquito abatement, and police protection.

A community services district is formed by the standard procedure of: (1) petition to the board of supervisors; (2) the board of supervisors fixing the boundaries; and (3) the holding of an election in the area to determine actual establishment of the district. Its governing body consists of three to five directors elected at large from within the district. The district may include within its boundaries any contiguous unincorporated territory in one or more counties. It may not include any incorporated territory The methods of financing available to a community services district are service charges, special assessments, and property taxes, as well as the issuance of general obligation and revenue bonds.

Of the 19 community services districts which had been formed by 1954, 14 had been activated. Of these 14, none were performing more than one function Only nine of these 14 districts had been formed to perform more than one function. Only three of the 14 districts were planning to provide additional functions at a later date.[42] From the above information is is apparent that: (1) a multipurpose district is authorized to exist in California, and (2) those districts formed under the community services district law have not been utilizing its multipurpose features to any measurable degree. The reason for nonuse of the multipurpose features of this authorization is that:

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[41] *Ibid*, p 26

[42] *Cf*, Robert O Bailey, "A Summary of the Use Which Has Been Made of (A) The Community Services District Act (1951) and (B) The County Service Area Law (1953)," (an address before the annual conference of the League of California Cities, Los Angeles, California, October 18, 1954)

> * * * Some areas did originally intend to perform a combination of functions found only in the Community Services District Act, but most of them utilized the enabling legislation simply because the publicity regarding its recent passage made it better known.[43]

In the districts where the performance of more than one function was intended, evidently the need has never developed This reason for nonuse does not necessarily invalidate the use of the multipurpose feature in a metropolitan government proposal. This is particularly so since the community services district law had not been applied in a metropolitan situation where the need for such a feature is widely recognized. The areas in which it has been utilized are relatively small and not densely populated [44]

Adaptable Elements. The important feature of the community services district law is that it authorizes the creation of a special district which may perform several unrelated functions. This is a feature which is essential to the structural adequacy of a metropolitan government. It allows for the handling of several functions by one governmental unit, which reduces the need for a number of special governmental units. This feature which allows for the provision of multiple services by the district government, as exemplified in the community services district law, should be contained in the proposal for a metropolitan multipurpose district.

One feature contained in the community services district law obviously prevents its use in meeting the metropolitan problem. This is the feature which limits a community services district to use in unincorporated territory.

Bay Area Air Pollution Control District

The Bay Area Air Pollution Control District is a metropolitan special district created by the California Legislature in 1955.[45] It is a metropolitan district since its area of jurisdiction includes nine counties of the San Francisco Bay Area These counties are Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. Presently the three counties of Napa, Solano, and Sonoma are not included in the district's activity since the respective boards of supervisors have not adopted resolutions declaring the need for the district to function in these counties. It is a special district because it is allowed to perform only one function—air pollution control

Other particular powers and limitations of the district are as follows: There is no provision for change of boundaries There is no provision for the issuance of bonds. The district may incur indebtedness not to exceed anticipated revenue for the forthcoming year. The district may obtain revenue for operations by requiring its member counties to levy a property tax for the district's support.

> Each year the district board must determine its budget for the ensuing year and apportion the total amount among the member counties, one-half according to the relative value of the real estate

[43] Bollens, *op cit*, p 111
[44] *Cf*. Bailey, *loc cit*
[45] California Statutes, 1955 Chapter 1797

in each county, and one-half in proportion to the population of each county.[46]

The total amount to be collected in any one fiscal year cannot exceed 1 cent per hundred dollars assessed valuation of all property within the district. The district governing board consists of two representatives from each county actively included in the district. One member from each county is a county supervisor, chosen by the board of supervisors. The other member from each county is a city mayor or councilman chosen by a city selection committee made up of mayors of all the cities within the county.

> The district governing board thus constitutes, in effect, a "federation" of the participating cities and counties, six of the board members representing the counties, and six representing the cities. If the district should be activated in one or more of the counties not now participating, the district board would be expanded accordingly to a possible maximum of 18 members.[47]

The Bay Area Air Pollution Control District is a single function district, limited to the "reduction of air contaminants in the district." It has been proposed that a method of meeting other area-wide service needs as they arise would be to create other single function districts parallel in structure to this district. "If the districts can be made to resemble each other closely, their consolidation at some future date will be facilitated."[48] Such uniformity would also "keep the regional governmental pattern simpler and more comprehensible."[49] The Bay Area Air Pollution Control District has been considered the beginnings of such a pattern. Actually, a single multipurpose metropolitan district would be simpler. There would be one district, one governing body, and no need for "consolidation at a future date." Area-wide functions would be assigned to the district as the district residents would direct.

Adaptable Elements. The fact that there is no provision for boundary changes is an unfavorable feature of this district. Such a feature does not allow for flexibility of boundaries to fit the area of need. Area flexibility is essential to the structural adequacy of a metropolitan government. Therefore, this feature should not be adapted for use in a metropolitan multipurpose district.

Another unfavorable feature which should not be adapted for use is the power to provide only one function. This is a contradiction to the objective of a multipurpose district, metropolitan or otherwise

The Bay Area Air Pollution Control District is restricted to the property tax for obtaining operating revenue. This tax may be a fairly predictable, acceptable, and sufficient source of revenue for a single function district, particularly when its function is air pollution control and benefits all residents of the area. A multipurpose district, however, should have several sources of revenue as pointed out as part of

[46] Stanley Scott, "The Problem of Organizing for Regional Planning and Other Area-wide Functions in the San Francisco Bay Area," (a report presented at a public hearing of the Subcommittee on Planning and Zoning of the Assembly Interim Committee on Conservation, Planning and Public Works, San Francisco, December 7, 1956), p 5

[47] *Ibid*, p 4

[48] *Ibid*, p 2

[49] *Ibid*

the requisite features of a metropolitan government in Chapter II. This feature should be corrected in a multipurpose metropolitan district proposal.

Another inadequacy of the Bay Area Air Pollution Control District Act is the lack of any provisions for the issuance of bonds. As was indicated in Chapter II, the several functions of a multipurpose district would require funds for major expenditures and long-term projects in addition to the annual operational support. To provide itself with such funds a multipurpose metropolitan district should be allowed to issue general obligation and revenue bonds under the usual and proper limitations.

A favorable feature of the Bay Area Air Pollution Control District is the composition of the governing body. This feature allows essentially for a limited federation of the constituent cities and counties of the district by composing the district governing board of members selected from the city and county governing bodies. This feature provides representation of the local governments and their residents, indirect popular control of the district governing board, and co-ordination of those functions assigned to the metropolitan district. Each of these provisions is essential to the political feasibility and structural adequacy of a metropolitan government.

CHAPTER IV

A METROPOLITAN GOVERNMENT PROPOSAL FOR CALIFORNIA

This chapter proposes a form of government for possible use in California's metropolitan areas. This proposal is prompted by the need for a metropolitan government established in Chapter I, and its provisions are based upon those elements considered essential to metropolitan government as presented in Chapter II. Use is made of certain provisions relative to California's present special districts as discussed in Chapter III.

A. STRUCTURAL FEATURES

It is proposed that a metropolitan multipurpose district government be made available for use in California. It is metropolitan since it is intended for use in metropolitan communities which generally include one or more cities or large urban areas and is particularly intended for use in those metropolitan areas which include all or part of two or more counties. It is multipurpose because it is intended that this government perform more than one function. It is a district government patterned in part upon existing arrangements and authorizations for independent district governments in California. Such a government, can be authorized for use in California merely by an act of the state legislature. This legislative act would be general and permissive, providing for the formation, jurisdiction, authority, and operation of the proposed metropolitan government Once a metropolitan multipurpose district is available for use under state law it may be activated to the extent of the needs, whether they be great or small, of each metropolitan area as long as the general requirements of the law are satisfied. The proposed general requirements for the establishment, definition of boundaries, and governing body of the metropolitan multipurpose district are presented below.

Creating the District

Since this metropolitan multipurpose district is to be provided by a permissive state law, it would be the responsibility of the metropolitan community, that is, its residents and appropriate governmental officials, to initiate its activation. It is these people who ultimately must consider their community problems and decide whether the creation of a metropolitan multipurpose district would aid in the solution of these problems.

Preparatory Community Activity. The creation of a metropolitan government is not a cure-all. Before any steps are taken in this direction a complete study of the metropolitan community should be performed. This study may be initiated and sponsored by the joint action of the component cities and counties of the metropolitan community, or, as in the case of the Metropolitan Seattle Area, it may be performed

by an independent civic organization. Such a study, nevertheless, would most likely be initiated and financed by joint action of the component city and county governments. The initiation of such a study may come about through the residents of the various local governmental jurisdictions petitioning their respective governing bodies to undertake such a study, or by these governing bodies resolving to act jointly in such a matter. In either case, the study could be financed on the following basis. After the cost of the study has been determined, the cost could be apportioned among the local governments taking part in the study on the basis of their relative population to the entire study area. Some assistance, both research and financial, may also be available from the resources of independent civic organizations as well as colleges and universities.

The general metropolitan problem will give evidence of its existence through the ineffectiveness or lack of community services, disparities in the need for service and the ability to finance them, complexity of local governmental structure, and inadequate or ineffective citizen control of local government. These are indications of the problem and must be investigated in detail to determine the extent of the problem and the steps to be taken for solution. A suggested study program for a metropolitan community includes the following: (1) study of the metropolitan area in terms of geographic, economic, political, and cultural factors. This will enable the community to determine the extent of the metropolitan area; (2) examination of governmental services on the basis of organization, administrative practices, and costs. This will furnish data on whether or not the organization and services furnished by the various jurisdictions meet the requirements of subareas and the full metropolitan area; (3) examination of revenues and expenditures in the subareas and the total metropolitan area in relationship to the governmental services indicated above, (4) analysis of information obtained from the above study to determine whether adjustments in the organization and administration and financing of these services can assure their adequacy; (5) comparative survey of metropolitan governmental experience. This phase is to analyze and evaluate possible solutions in terms of their applicability to the area under study in order to arrive at that solution best suitable.[1]

The methodology of the community study program is equally as important as the content. The metropolitan community study should be performed by competent research persons consulting throughout the study program with official and unofficial agencies of the community. In particular,

> Community partnership in metropolitan studies is important not only because the results are more acceptable, but because the solutions evolved through community participation are more realistic and are often better solutions.
>
> * * * If the community, through official and unofficial agencies, is a partner to the studies and the decisions upon which recommendations are developed, then the community can appreciate their

[1] Samuel E Wood, "Metropolitan Problems and Solutions" (paper read at a meeting of the American Institute of Planners, Northern California Chapter, Modesto, California, October 5, 1957), pp 5-7.

purpose, understand their meaning, and endorse and act upon the conclusions.[2]

If, on the basis of the results of such a study, it is determined that the creation of a metropolitan multipurpose district would best provide the means of solving metropolitan community problems, then action should be taken to establish the district. Included in the recommendations of this study would be the proposed boundaries for the metropolitan government as well as the proposed functions to be performed by this government.

General Election Measures. The establishment of the metropolitan multipurpose district should be decided by a general election held in the area proposed to be included in the district.

The procedure calling for a discussion of the question and the election could be initiated either by resolution of the local governing bodies or petition of the area residents. These petitions or resolutions would request or resolve that the respective boards of supervisors call an election without delay for determining whether or not the district shall be created.

Upon receipt of these resolutions or petition, the boards of supervisors to whom they are presented might call for the formation of a metropolitan commission for the purpose of determining the actual functions and boundaries of the district. This commission would consist, for example, of one member from each local governing body proposed to be included in the district. The deliberations of this commission, however, should be limited to a reasonable period of time. Upon the determination of the district boundaries and functions, this commission would be dissolved and the boards of supervisors would call an election within the proposed district for the purpose of determining whether the proposed district shall be created and established

The boards of supervisors calling the election should publish notice of the election to be held within the proposed district. This notice is to state the name of the proposed district, list the functions it is to perform, and describe its boundaries.

To prevent any confusion on the part of the voters as to what they must do to establish or not establish the district, the ballot measure should be stated simply and call for a "yes" or "no" vote. All that would be necessary on the ballot is a statement such as: The (name) metropolitan multipurpose district shall be established. Yes.____ ___. No _____. Also included on the ballot would be the question: If the above district is established, shall it perform the function of (type of function). Yes. _____. No. _____. Each function proposed to be performed by the district should be voted on separately. It is reasonable and customary to specify that the creation of the district be decided by a majority of those votes cast.

Boundaries

General requirements for the establishment of boundaries for the metropolitan multipurpose district need to be contained in the state enabling act. This is to provide the district with adequate areawide jurisdiction, wherever it may be established.

[2] *Ibid*, p. 4

Adequate and Flexible. It is proposed that the district may include any contiguous territory, incorporated or unincorporated, in one or more counties. The district boundaries must include all and not just a portion of an incorporated area but may include any portion of a county. The district boundaries are to be approximately parallel with and not inside the metropolitan community boundaries as determined by a study of the area's particular geographic, economic, political and cultural factors. It should also be provided that there be no exceptions to the jurisdiction of the district within the established boundaries. For this reason it is proposed that the multipurpose district governing body may, by resolution, dissolve those special districts providing functions identical to its own.[3] Any conflict of jurisdiction between the metropolitan multipurpose district and city and county governments is expected to be effectively handled by the assignment of functions and powers to the district government.

To allow for expansion of the metropolitan multipurpose district boundaries it should be provided that territory may be annexed to the district. The annexation procedure may be initiated by petition of the residents in the area to be annexed or upon resolution of the metropolitan multipurpose district governing body. Approval of the annexation would be determined on the basis of a public hearing in the area to be annexed and by a resolution of the district governing board which would be subject to referendum.

Basis for Determining. The basis for determining the metropolitan community boundaries should be a study of the geographic, economic, political and cultural factors of its particular metropolitan complex. This is the first phase of a complete metropolitan study as outlined above. It must be known what the metropolitan community is and what its particular problems are before proper steps towards solving its problems can be taken. It has been suggested that such a study be performed by competent research persons maintaining liaison with and periodic reporting to official and unofficial agencies of the metropolitan community. The technical staff will conduct the study, determine the actual metropolitan boundaries and present their findings to the community for discussion and acknowledgment as a foundation for decision and action by the community.

Governing Body

In order to obtain public acceptance, the metropolitan multipurpose district must have a government representative of the governed and subject to popular control. The district would also meet the test of political feasibility if it were a limited federation of existing local governments.

It is also important that the administration of district activities be placed in the hands of a competent administrator. This is based on the historical and present trends in California city and county government.

Selection and Representation. It is proposed that the multipurpose metropolitan district legislation provide for selection of board members by and from the governing bodies of the component cities and

[3] *Infra.* As outlined under "Authority and Powers—Integration of Function," p 48.

counties, who would therefore be representative of these local governments and their residents.

This method could operate as follows: The county boards of supervisors would select their representatives directly while the cities of each county would form a city selection committee made up of the mayors or chairmen of each city council and would then select the city representative or representatives from among all the city councils. Such a method is presently used to form the governing body for the Bay Area Air Pollution Control District.

The result of this arrangement is a limited federation of local governments which is politically feasible and does not call for additional elective offices, election procedures and costs. Each member is subject to recall as a member of his local governing body. Though this arrangement does not allow for representation based upon population, it is easy to understand, simple to effectuate, and has received much favorable comment and use as a method of constituent-unit representation.

Council-manager Form. It is proposed that the district governing board delegate the responsibility of the administration of the district activities to a district executive officer. It has been recognized that the co-ordination of governmental activities is best handled by a trained, full-time executive. This executive officer should be appointed by the district governing board and serve at the pleasure of the board. He would be responsible to the governing board for the establishment of the administrative organization, the performance of the functions assigned the district, and any other duties assigned by the board.

B. OPERATIONAL FEATURES

The operational features of the proposed metropolitan government concern the assignment of functions, the delegation of authority, and the method of financing for the proposed metropolitan multipurpose district.

Functions

The existence of one areawide government capable of performing several functions will obviate the necessity of creating several overlapping metropolitan districts each to perform one special function and each with its own set of officers, personnel, operating procedures and appetite for revenue. It should also be provided that functions not assigned to the metropolitan government, when initially established, may be assigned to that government as the need occurs. A suggested procedure for the actual assignment of functions is presented below.

At the same time, to allow for political feasibility, the metropolitan government must provide for the preservation and maintenance of a high degree of local autonomy on the part of the existing local governments. To this end, it must be provided that, while the metropolitan government is to perform certain areawide functions, those functions essentially of local concern and magnitude will continue to be performed by the existing city and county governments.

Original and Additional. It is proposed that the metropolitan multipurpose district at the time of establishment be assigned one or more specific functions with the express provision that additional functions may be assigned at a later date. This portion of the proposal sup-

ports the multipurpose feature of the district government and permits the performance of additional areawide functions as the need occurs without the addition of another governmental structure.

The following list represents those functions most often determined of areawide concern as the result of comprehensive studies of various metropolitan areas.

1. Metropolitan planning and zoning control
2. Air and water pollution control.
3. Sewers and sewage disposal.
4. Traffic and transportation.
5. Water supply.
6. Law enforcement.
7. Fire protection.
8. Metropolitan parks and recreational facilities.
9. Civil defense.[4]

The functions possible for areawide performance by the metropolitan multipurpose district are not limited to those mentioned. The kind and number of functions actually considered for areawide performance will vary from area to area since no metropolitan community is exactly like another, in spite of basic similarities. Those functions actually assigned in any case would depend upon the recommendations resulting from the metropolitan study and/or as recommended by a metropolitan commission, and as finally determined by a vote of the residents of the area

It is suggested that the method of assigning functions to the district both initially and subsequently be the same as the procedure for establishing the district itself.[5] The support for this suggestion is that initially the establishment of the district is for the purpose of performing one or more area-wide functions. It is reasonable and convenient to provide for both district and function at the same time. It is also reasonable that the subsequent assignment of area-wide functions should follow the same procedure. Even though the district is established, the added function and the necessary powers and financing to allow for its performance should be properly delegated.

Subsequent to the establishment of the district, additional functions may be added at any time on the basis of the following procedure. Upon the petition of 10 percent of the voters within the district, the resolution of half or more of the city and county governments within the district, or upon its own resolution, the metropolitan district governing board is to initiate and finance by a sharing agreement with the city and county governments a study of the function or functions as stated in the petition or resolutions This study should include an examination of the services and functions as provided in subareas and the total metropolitan area in terms of organization, administrative procedures, overall adequacy, and costs. The data obtained is then analyzed to determine the service needs of the subareas as well as the entire metropolitan community. Such a study is expected to produce sufficient

[4] *Cf.*, Edwin A. Cottrell and Helen L Jones, *The Metropolis Is Integration Possible?* (Los Angeles The Haynes Foundation, 1955), p 107, Ruth Ittner, *Government in the Metropolitan Seattle Area* (Seattle University of Washington Press, 1956), pp 21-106, *Path of Progress for Metropolitan St. Louis* (University City: Metropolitan St Louis Survey, 1957), pp 68-78.

[5] Supra, "Creating the District," pp. 41-43

and reliable indications whether or not any particular function is best performed at the local or metropolitan level.

Allowing a sufficient length of time for the performance of the study and the publication of the study recommendation, the district governing body should hold a general election in the district to decide by majority vote whether the function or functions contained in the original petition or resolutions shall be delegated to the district.

Local and Metropolitan. The metropolitan multipurpose district should be limited to the performance of those functions specifically delegated to it. This feature would allow for the greatest possible degree of autonomy on the part of the existing local governments. All functions presently performed or allowed to be performed at the city and county government levels would remain as a prerogative of these local governments. The metropolitan multipurpose district would assume the performance of functions on an area-wide basis only as such functions are assigned by general consent of the area residents on the basis of the procedure outlined above.

Authority and Powers

The metropolitan multipurpose district should be granted such general governmental powers as are necessary for its operation as a unit of government. These general powers are those common to most all governmental units, such as: the right of succession, the power to make contracts, to sue and be sued, to acquire and dispose of property, to tax and issue bonds, and to hire employees In conjunction with the hiring of employees, the district should be authorized to adopt a merit system. These general powers are essential to the existence and operation of the district as a unit of government. In addition to these general powers the district must also have specific powers relating to the performance of the specific functions which the district is assigned.

Performance of Operations. It is proposed that the metropolitan multipurpose district be granted full and complete authority as required for the performance of each specific function assigned to the district. This feature is necessary to assure adequate and effective performance of the district functions and is in agreement with the administrative principle that the authority to act must be commensurate with the delegated responsibility for action.

The powers granted will vary according to the functions assigned. Nevertheless, the powers necessary for adequate performance of any particular function should be determined and these powers be granted in one package with the assignment of the function This determination might be made on the basis of a comparative study of the operation of similar functions by other units of government as related to the desired performance of that function by the metropolitan multipurpose district.

By assigning the "full and complete" authority for the performance of a function to the district, existing city and county governments in the metropolitan area would thus relinquish their authority and responsibility for its performance. In essence, this involves the transfer of a function from one jurisdiction to another. In some cases, however, only part of a function would be involved. For example, the planning, construction, and maintenance of metropolitan trafficways and arterial streets may be assigned to the metropolitan government, while the same

responsibilities for connector roads and streets be retained at the local levels. In such cases, the preparatory community activity must be so handled and the wording of the actual granting of authority and responsibility so explicit as to allow for complete understanding of the division of operating authorities.

Integration of Function. It is proposed that the metropolitan multipurpose district be granted the specific power to dissolve those special districts within its boundaries which are performing a function identical to a function provided by the district. The metropolitan district would assume the assets and liabilities of the dissolved district as well as the responsibility for the performance of the function involved. This feature is necessary for the integration of a function to be performed on an area-wide basis and is in support of the preceding feature allowing the metropolitan district government full and complete authority for the performance of functions assigned to the district.

Actually, the assignment of an areawide function to the metropolitan government limits the need for other governments to provide that same function. Provision has been made for the effective handling of the distribution of functional authorities and responsibilities between existing city and county governments on the one hand and the metropolitan government on the other. In addition, these local governments provide other and numerous vital functions. It is not the intention to abolish existing city and county governments. In the case of the special district, however, the only reason for its existence is the provision of its special function. If this function is being provided on an areawide basis by the metropolitan multipurpose district, then there no longer is a reason for the existence of that special district.

Method of Financing

A metropolitan government must be equipped with the power to raise its funds in order that it may adequately and effectively plan for and provide its assigned functions and in order that it may operate and exist as a unit of government. Funds are necessary not only for day-to-day operations and maintenance of the government, but also for the periodic capital expenditures involved in the purchase, construction, and improvement of equipment and facilities required in support of daily governmental functions.

Operations and Maintenance. Two alternative methods are presented for providing operating funds to the metropolitan multipurpose district. These alternatives concern that portion of the district operations budget which is not accounted for by service charges and fees, and special assessments. The latter sources of revenue will be discussed later.

The first method of providing operating funds to the district allows the governing board to levy a general property tax. If, in the opinion of the board, other sources of revenue such as service charges will not be sufficient for any and all operations of the district, the board is to fix the amount of money necessary to be raised and levy a tax for that purpose. This amount would be apportioned to property owners throughout the district on the basis of the assessed valuation of their property. The district board may provide for the assessment, levy, and collection of the taxes by the district or it may avail itself of the serv-

ices of the tax collectors and the assessors of the counties in which the district is situated.

The alternative method for providing sufficient operating revenue to the metropolitan multipurpose district allows the governing board to apportion that amount of its annual budet estimate not covered by fees and charges among the member counties of the district. Such a method is feasible only when all portions of each member county are included within the district. The district governing board would apportion the aforementioned amount to its member counties one-half on the basis of the relative population of the county to the district and one-half on the basis of the relative assessed valuation of each county to the district. This method of apportionment is presently being used in the Bay Area Air Pollution Control District.

In any case, in both of the above methods the property tax is used as a budget balancer. As far as possible the functions of the district should be self-supporting. In order to accomplish this the district may provide for rates, tolls, and charges for any service or commodity which lends itself reasonably to this method. The governing board should also be able to levy special assessments throughout the district as well as within particularly defined areas of the district for those services or functions directly benefitting all or only parts of the district. The objective is to have each district resident support the district services to the extent that each benefits, or as nearly so as possible.

Capital Outlay. The metropolitan multipurpose district should have both the power to issue revenue bonds based on charges for services rendered and the power to submit for voter approval the issuance of general obligation bonds. This feature of the proposal is intended to permit an adequate method of financing capital expenditures of the district. Both types of bonds would be necessary since each serves a particular purpose.

The revenue bond is best utilized for the financing of some facility or service which in turn produces revenue. Revenue obtained from utilization of the facility or service is then dedicated to the retirement of the bond issue. Revenue bonds are not considered within the debt limitations of the issuing authority, need not be submitted for voter approval, and are usually a successful means of financing certain capital improvements which more or less pay for themselves.

General obligation bonds may be used for most any project requiring a large amount of funds, but are generally issued for those projects not expected to produce revenue though essential to the operation of the government. The general obligation bond may be retired by funds from any source not already dedicated but usually by an increased tax on property.

The district's power to issue general obligation bonds should be limited so that the aggregate amount of such bonds outstanding at any one time would not exceed a reasonable and specified percent of the assessed value of all real and personal property in the district.

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ASSEMBLY INTERIM COMMITTEE REPORTS

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A METROPOLITAN MULTIPURPOSE DISTRICT FOR CALIFORNIA

REPORT OF THE SUBCOMMITTEE ON PLANNING

A Subcommittee of the
ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 215, 1957

Report Prepared by
PACIFIC PLANNING AND RESEARCH
Philip G. Simpson Samuel E. Wood

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March, 1959

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COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
SACRAMENTO, March 1, 1959

HON RALPH M. BROWN
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento

GENTLEMEN: The full Committee on Conservation, Planning, and Public Works, under the chairmanship of Francis C. Lindsay, in all of the work of its 10 subcommittees has found the primary difficulty in meeting the problems of growth in California are related to the inadequacy of existing jurisdictions to cover full problem areas

Thus, in the field of planning, it is possible to establish a metropolitan or regional planning agency covering the full problem area, but the plan itself, to be effective, must be adopted by all the cities and counties within the area. Further, it must be reflected in the area-wide physical development programs, whether they be streets and highways, air pollution, sewerage, or water supply and distribution. This frustration with the inadequacies of jurisdictions appropriate to cover the problem areas resulted in the full committee assignment of this subject to the Subcommittee on Planning for study and report.

This report is the second produced during this interim on the subject of metropolitan organization. The first was a background report prepared by the staff of the committee for the purpose of discussing in more detail the problems of metropolitan organization in California. The two reports together are important contributions to this subject and should be carefully reviewed by Members of the California Legislature.

Respectfully submitted,

THOMAS M. REES, Vice Chairman
Assembly Interim Committee on
Conservation, Planning, and Public Works

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, March 1, 1958

Committee on Conservation,
Planning, and Public Works
California State Assembly, Sacramento

GENTLEMEN: While six years of hearings and staff work have emphasized the importance of a workable method of establishing areawide government to meet areawide problems, the decision to prepare legislation and the report supporting it was made at the full committee programming meeting following the 1957 session The committee desired a solution not in violation of the strong home rule principles characteristic of California local government and one that would not necessarily result in big government

Staff research indicates that major proposals for governmental consolidation in metropolitan areas have often been defeated, even though such proposals were sound, because of political inacceptability. It is felt that areawide government based on present local governmental structures will meet the test of both acceptability and adequacy.

The general framework of the legislation submitted with this report was first developed for the San Francisco Bay Area Air Pollution Control District. This legislation was prepared over a two-year period in close co-operation with the cities and counties in the San Francisco Bay area. It was deliberately designed to permit the same pattern of government structure to be used as other functions of an areawide nature were identified and support developed for transfer to areawide government. The same pattern of structure was used in the metropolitan and regional planning legislation prepared by this subcommittee and accepted by the Legislature at the 1957 session.

It is the belief of the subcommittee that the permissive legislation submitted with this report will make possible areawide government, strongly founded on the principle of home rule, yet with sufficient authority and responsibility to meet present and developing metropolitan problems.

Respectfully submitted,

SUBCOMMITTEE ON PLANNING

THOMAS M. REES, Chairman
BRUCE F. ALLEN
CHARLES W. MEYERS
JOHN L E. COLLIER
(With reservations)

WILLIAM BIDDICK
BRUCE SUMNER
JESSE M. UNRUH
HAROLD T. SEDGWICK

SUMMARY OF FINDINGS

As a result of hearings and staff investigations regarding the need and acceptability of a multipurpose general law district to meet present and future metropolitan governmental requirements in California, this subcommittee presents the following findings:

1. The fundamental problem of metropolitan government originates from a contradiction between the underlying unity of a metropolitan area and its normally fragmented governmental structure.

2. All portions of the metropolitan area are interrelated with all other portions, and the several functions of a metropolitan complex are interdependent.

3. Each metropolitan area needs a metropolitan representative body whose task it would be to make decisions and establish policy matters of areawide concern.

4. The creation of an areawide policy-making body should not impair the recognized values embodied in the pre-existing local government.

5. Local governments in California have the power to resolve recognized metropolitan problems within their own jurisdiction.

6. The authority of the metropolitan areawide governing body must derive from local sources, and in fact be a combination of the powers of local authorities.

7. The California tradition of local home rule and self determination should be continued and strengthened.

8. To operate effectively as an areawide government the metropolitan multipurpose district must have areawide jurisdiction.

9. The multipurpose metropolitan district must have full control over those areawide functions assigned to it with sufficient authority and the proper administrative organization to perform its responsibility.

10 The metropolitan multipurpose district must have adequate financing to perform its function.

RECOMMENDATIONS

It is the recommendation of this subcommittee that the legislation, presented below and supported by the findings of this report, be adopted, as both politically acceptable and administratively adequate for use in California metropolitan areas.

PROPOSED LEGISLATION

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1896

Introduced by Messrs. Rees and Unruh

March 9, 1959

REFERRED TO COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

An act to add Division 3 (commencing at Section 6300) to Title 6 of the Government Code, relating to metropolitan multipurpose districts.

The people of the State of California do enact as follows:

SECTION 1. Division 3 (commencing at Section 63000) is added to Title 6 of the Government Code, to read:

DIVISION 3 MULTIPURPOSE DISTRICTS

CHAPTER 1 METROPOLITAN MULTIPURPOSE DISTRICT ACT

Article 1 Declaration of Policy

63000. The Legislature finds and declares that the people of the State have a primary interest in the establishment of adequate governmental machinery to provide metropolitan services in those areas of the State where public service needs exceed the jurisdictions of one or more local government agencies, creating a condition detrimental to the public peace, health, safety and welfare.

63001. The Legislature further finds and declares:

(a) The fundamental problem of metropolitan government originates from a contradiction between the underlying unity of a metropolitan area and its normally fragmented governmental structure.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1896, as introduced, Rees (Mun. & C. G.). Metropolitan multipurpose districts.

Adds Div. 3 (commencing at Section 63000), Title 6, Gov. C.

Enacts the Metropolitan Multipurpose District Act providing for the formation of such districts in any one or more entire counties.

Authorizes such districts to render a wide variety of services to the inhabitants of the district.

Provides for a system of administration for such districts and provides for financing such districts.

(b) All portions of the metropolitan area are interrelated with all other portions, and the several functions of a metropolitan complex are interdependent.

(c) Each metropolitan area needs a metropolitan representative body whose task it would be to make decisions and establish policy in matters of areawide concern.

(d) It is not practical or feasible to create additional and overlapping jurisdictions which are distinctive in organizational structure and methods of representation to provide each every metropolitan function.

(e) The creation of an areawide policymaking body should not impair the recognized values embodied in the pre-existing local government, and should aid in preserving those values by helping to improve local performance.

(f) Local governments in California have the powers to resolve recognized metropolitan problems within their own jurisdictions.

(g) That it is necessary, therefore, to provide a general act enabling one or more counties and their cities to establish a metropolitan multipurpose district with powers and duties similar to those utilized by the local government agencies but administered on an areawide basis.

Article 2 Definitions

63003. The definitions in this article govern the construction of this chapter.

63004. "District" means a metropolitan multipurpose district.

63005. "Component city" means an incorporated city within a metropolitan area.

63006. "Component county" means a county which is included within a metropolitan area.

63007. "Council" means a metropolitan council which is the governing body of a metropolitan multipurpose district.

63008. "Manager" means a metropolitan manager who is the chief administrative officer of a metropolitan multipurpose district.

63009. "Metropolitan function" means any of the functions of government named in Article 6 of this chapter.

63010. "Special district" means any municipal corporation of the State other than a city, county, or metropolitan multipurpose district.

Article 3. Creation of a District

63015. One or more entire counties may constitute a district.

63016. A district may be created by vote of the qualified electors residing within the area of the proposed district in the manner provided in this chapter. An election to authorize

the creation of a district may be called pursuant to resolution or petition in the following manner:

(1) By a resolution or concurring resolutions calling for such an election adopted by either:

(a) A resolution of the board of supervisors of the county or counties to be included within the district; or

(b) A resolution of half or more of the city councils of the cities to be included within the district.

(2) By a petition requesting the creation and maintenance of a district, signed by at least 10 percent of the qualified electors residing within the area proposed to be included in the district. Certified copies of the petition shall be transmitted to the several clerks of the boards of supervisors in each of the counties within the proposed district.

63017. The resolution and petition provided for in Section 16 shall recite the following:

(1) The names of the counties proposed to be included in the proposed district which will be benefited by the formation thereof

(2) The function or functions to be performed by the district

(3) That the public interest or necessity demands the creation and maintenance of the district and that it will be beneficial to the public interest to create the district.

63018. At least 30 days before an election to create a district, the board of supervisors of the county or counties to be included shall issue an election proclamation calling for such election. The proclamation shall contain:

(a) A statement of the time of the election.

(b) A statement of the functions to be performed by the proposed district

(c) All other details relevant to the proposed district.

63019. The election shall be conducted in accordance with the general election laws of this State, where applicable, and every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

63020. The ballot shall be printed substantially in the following form:

(1)

Shall the ("name of area") Metropolitan Multipurpose District be created and established?	Yes No

(2)

If established, shall the above-mentioned district be allowed to perform the function of ("name of function")	Yes No

(3)

Other functions to be voted on shall be presented as separate items in the same manner as (2) above.	Yes No

63021 If, in any election called for voting on a proposed district, a majority of the qualified electors vote to form a district, but fail to vote a majority on any of the proposed functions to be performed by the district, the adoption of the district is null and void.

63022 Additional functions may be added to a district's responsibility at any time subsequent to the establishment of the district by the same procedures as for the creation of a district, except that a resolution of the metropolitan council may also place a function on the ballot.

63023. A certified copy of the results of an election called for the purpose of forming a district shall be transmitted to and filed with the Secretary of State, whereupon the district shall be deemed created and organized and shall exercise all the powers granted in this chapter.

63024 Whenever an existent special district is performing one of the functions to be performed by a proposed metropolitan district within the area of the proposed metropolitan district, the special district shall continue in existence until the council of the new metropolitan district adopts and files with the governing body of the special district a certified copy of a resolution requesting the dissolution of the special district. Upon the filing of the resolution with the governing body of the special district the special district is dissolved and the property of the district becomes the property of the metropolitan district The council shall have the power to decide whether the metropolitan district shall assume any outstanding obligations of the dissolved district.

63025 Any city or county within a new district which is already performing one or more of the functions to be performed by the district may, if it desires, discontinue performing such function and turn over all property used to perform the function to the new district.

Article 4. City Selection Committee

63030. There shall be a separate and distinct city selection committee for each county. The membership of such committees shall consist of the mayor of each city within such county or, where there is no mayor, the chairman or president of the city council.

63031. A majority of the members of each city selection committee shall constitute a quorum

63032. The City and County of San Francisco is both a city and a county for the purpose of this article.

63033. The city selection committee of each county may meet, on the call of any mayor or where there is no mayor, the chairman or president of the city council, for the purpose of making the first appointment to the council as prescribed in Article 5. The committee of each county shall, thereafter meet at 10 o'clock a m. on the second Monday in May of each year that it is necessary to make succeeding appointments to the council. At least two weeks prior to the date of each meeting the clerk of each county shall give notice of such meeting to each member of the city selection committee of such county. The meeting of the city selection committee of each county shall be conducted in the presence of the clerk of such county who shall act as the recording officer for the meeting. It shall be the duty of the clerk to give an appropriate notice signed by the chairman of the committee to the Secretary of State of each appointment made by the city selection committee.

63034 Each committee shall appoint a chairman from among its members and such other officers as may be necessary.

63035 Members of the committees shall serve without compensation, but may be allowed actual expenses incurred in the discharge of their duties as may be authorized by the council.

Article 5. Governing Body

63040. The metropolitan council shall be the governing body of the district and shall be selected as provided in this article

63041. The number of members of the council to which each county within a district is entitled shall be determined as follows:

(1) If the area to be included within the district consists of one county, the council shall consist of five members. Two members shall be appointed by the board of supervisors from among its own members, two members shall be appointed by the city selection committee from the members of the city councils in the county, and one member shall be appointed by a majority of the board of supervisors and a majority of the city selection committee from the members of the city and county legislative bodies.

(2) If the area to be included consists of two counties, each county shall have three members of the council. One member shall be appointed by the board of supervisors from among its own members, one member shall be appointed by the city selection committee from the members of the city councils in the county, and one member shall be appointed by a majority of the board of supervisors and by a majority of the city selection committee from the members of the city and county legislative bodies.

(3) If the area to be included consists of three or more counties, each county shall have two members of the council. One member shall be appointed by the board of supervisors

from among its own members and one member shall be appointed by the city selection committee from the members of the city councils in the county

63042. The members of the council appointed by the city selection committee shall be mayors or members of the city councils of the cities

63043. The term of office of each member of the council, except a member appointed jointly by a majority of the board of supervisors and a majority of the city selection committee in any county, shall be four years and until the appointment and qualification of his successor.

63044. The term of office of each member of the council appointed by a majority of the board of supervisors, and a majority of the city selection committee in any county, shall be four years or until such time as a third county joins the district, appoints and qualifies its members, whichever is shorter.

63045. The power which originally appointed a member whose term has expired shall appoint his successor for a full term of four years except that the term of office of a successor to the member of the council appointed by a majority of the board of supervisors and a majority of the city selection committee shall be as set forth in Section 63044 Any member may be removed for cause by the power appointing him if notice is given and a hearing is held.

63046. No supervisor, major, or city councilman shall hold office on the council for a period of more than three months after ceasing to hold the office of supervisor, mayor or city councilman, respectively, and his membership on the council shall thereafter be considered vacant, except that any mayor who continues to hold office as a city councilman, or city councilman who continues to hold office as a mayor, shall not be considered to have ceased to hold office under this section.

63047. Each member of the council appointed by a board of supervisors shall be appointed by a resolution of that board Each member of the council appointed by a city selection committee shall be appointed by a majority vote of the committee evidenced by a notice signed by the chairman of said committee. Each member of the council appointed jointly by a board of supervisors and a city selection committee shall be appointed by a resolution of the board of supervisors and a majority vote of the city selection committee. Certified copies of all said resolutions and all said notices shall be forwarded without delay to the Secretary of State

63048. Any vacancy on the council shall be filled for the unexpired term of appointment by the power which originally appointed the member whose position has become vacant.

63049. No person while serving as a member of a council shall be eligible to be appointed to any salaried office or employment in the service of the district nor shall he become eligible for such appointment within one year after he has ceased to be a member.

63050. Within 30 days after the Secretary of State has received certified copies of the resolutions appointing the city and county members of the council he shall call the first meeting of these members of the council and shall designate an appropriate time within said 30-day period for the meeting, which shall be held in any city in the district as designated by the Secretary of State.

63051 The council is the governing body of the district and shall exercise all of the powers of the district, except as otherwise provided.

63052. A majority of the members of the council constitutes a quorum for the transaction of business and may act for the council.

63053 The council may elect a chairman and other officers as it deems necessary from among its own members.

63054 The council may appoint an executive committee, consisting of a chairman of the council and as many other members of the council as the council deems appropriate and such executive committee may carry on the administrative and executive functions of the council between full meetings.

63055. The council shall meet at least four times in each year and may call additional meetings at its own discretion, or, during periods between meetings, at the discretion of a majority of the executive committee

63056 Each member of the council shall receive the actual and necessary expenses incurred by him in the performance of his duties, plus a compensation of fifty dollars ($50) for each day attending the meetings of the council, but such compensation shall not exceed one thousand dollars ($1,000) in any one year

63057. The provisions for the executive committee set forth in this article shall not be construed to limit the council or the executive committee from setting up any other committees or groups which it may see fit.

63058 If any member of the council is recalled from his office of member of the board of supervisors or of mayor or member of the legislative body of a city pursuant to the provisions of Division 13 of the Elections Code, his office as a member of the council shall be deemed to be vacant.

Article 6. Metropolitan Functions and Powers

63060. The district shall perform one or more of the following functions when properly delegated as provided in this chapter:

(1) Planning and zoning.
(2) Air pollution control
(3) Water supply.
(4) Sewage disposal
(5) Public transportation
(6) Parks and parkways.
(7) Law enforcement.

(8) Fire protection.

(9) Civil defense.

(10) Any other metropolitan areawide function when delegated as provided in this chapter.

63061. All functions of local government which are not authorized as provided in this chapter to be performed by a district, shall continue to be performed by the counties, cities and special districts within the area of the district as provided by law.

63062 "District planning and zoning" as used in this chapter means a comprehensive, long-term general plan for the physical development of the district. The district plan shall consist of a text and a map or maps and shall include at least the following sections

(a) A concise statement of the principal findings of fact concerning the district, and a concise statement of the major problems and potentialities of the district.

(b) A statement of the major objectives, principles and standards expressed in the plan, and a summary of major proposals.

(c) Recommendations for the most desirable general arrangement of land use within the district, considered in respect to trends in economic and population growth and development, and any other studies that may appear relevant to the board

(d) The transportation system recommended for the district, including all facilities for the transportation of people and goods of district importance or district concern

(e) Recommendations concerning the need for and proposed general location of district facilities and reservations which by the nature of their function, size, extent or for any other causes appear to the district planning board to be appropriate subjects for inclusion in the district plan.

(f) Recommendations concerning those areas which, in the opinion of the council, should be carefully conserved, or which are so especially suited to some particular use as to render it contrary to the best interests of the district community that they be developed for any other use. Such areas may include, without limiting the generality of the foregoing, areas especially suited for industrial, or agricultural purposes and areas best left in an undeveloped or relatively undeveloped state

(g) Such other recommendations of the council concerning current or future problems as may in its opinion affect the district as a whole and are proper for inclusion in the district plan.

63063. The district shall perform the following four major functions in planning and zoning, if authorized:

(a) The district shall, as a primary function, prepare, maintain, and regularly review and revise, a district plan and shall, after at least two public hearings in different parts of the district and such other public meetings as may appear to

it advisable, adopt such plan as the district plan for the district, and shall, after at least two public hearings and such other public meetings as may appear to it advisable, adopt revisions of such plan from time to time when in the judgment of the council such revisions are necessary in the light of changing conditions. Such plan shall be based on comprehensive studies of the physical, economic, social and governmental conditions of the entire district and related areas, and shall aim at the co-ordinated physical development of the district in a manner best designed to promote the general welfare and prosperity of its people. In preparing, adopting, maintaining, reviewing and revising the district plan, the council shall take account of and seek to harmonize, within the framework of the needs of the district community as a whole, the master or general plan of cities and counties within the district, and the plans and planning activities of state, federal and other public and private agencies, organizations and instrumentalities within the district and adjacent to it. Before adoption of the district plan or of any revisions of the plan, the council shall refer the proposed plan or proposed revisions to each city and county government for review, and shall allow a reasonable time for the formulation of recommendations by city and county governments on the proposed district plan and proposed revisions of the plan. In preparing, adopting, maintaining, reviewing and revising the district plan, the council shall actively seek the co-operation and advice of cities and counties, of state and federal agencies, organizations and instrumentalities, of educational institutions and research organizations, whether public or private, and of civic groups and private persons or organizations.

(b) The district, acting in its own judgment, shall make, publish, or assist in making or publishing, studies or investigations of the resources of the district and of existing or emerging problems of any nature related to the physical and economic growth and development, living conditions, of the district, or any part thereof.

(c) The district shall publish, transmit and explain the district plan, district studies, and any other activities of the council to each of the cities and counties within the district, and similarly shall publish, transmit and explain the district plan, district studies, and any other activities of the council, to all relevant state and federal agencies, organizations and instrumentalities, to educational institutions, to relevant civic and citizen groups of all types, and to private citizens who have evidenced interest in the work of the board. In carrying out this function, the council may hold public hearings, prepare printed and visual materials of all sorts, and use any medium of communication judged to be appropriate and effective.

(d) The district shall promote and encourage the growth and development of district understanding and co-operation through sponsorship and participation in public or private

meetings for the consideration of district problems, through appropriate publications, or the use of any medium judged to be most appropriate and effective. The district may further, acting in its own judgement, offer its facilities and services to assist in the solution of problems related to physical development involving two or more governing bodies, planning commissions, agencies, organizations or instrumentalities, public or private; and may otherwise participate in any program or activity intended to seek or find common or co-operative solutions to problems related to physical development or the integration of policies related to physical development and conservation within the district, or in any part thereof.

63064. The district shall from time to time study and review, in the light of changing conditions and the evolving needs of the district; (a) the nature and scope of the district planning function within the area encompassed by the district, and (b) the organization under which the district planning function may be best carried on. The council shall report to the cities and counties within the district, to all relevant state and federal agencies, organizations and instrumentalities, to relevant civic and citizen groups, and to the State Legislature and the appropriate committees thereof on ways in which such function or organization may be improved, including, without limiting the generality of the foregoing, proposals concerning the structure of the district, co-operation or combination of the district with other governmental agencies in the district, or other means for the effectuation of the purposes of this chapter

63065. To facilitate effective and harmonious planning and development of the district, all county and city legislative bodies, and all county, city, or other planning agencies within a district shall file with the council, for its information, all county or city master or general plans, the elements of such master or general plans, and any other plans, zoning ordinances, official maps, building codes, subdivision regulations, or amendments or revisions of any of them, as well as copies of any regular and special reports dealing in whole or in part with planning matters All agencies, organizations and instrumentalities of the State within the district shall file with the council, for its information, all public plans, maps, reports and other documents which are related to district planning or other activities of the district

To facilitate further the effective and harmonious planning of a district, the council of any district may request from the Federal Government, its agencies and instrumentalities, and from private organizations, agencies, or individuals, copies of those plans, maps, reports and other documents which are related to district planning or the other activities of the district

63066 The council may make recommendations to county and city legislative bodies, planning commissions, and all other city or county planning agencies within the district, and

1 to agencies, organizations and instrumentalities of the State
2 and Federal Government (including the State Legislature
3 and appropriate committees thereof), and private organiza-
4 tions, agencies, or individuals within the district, for the co-
5 ordination of research and the collection of data, the improve-
6 ment or standardization of procedures, or any other matter
7 which may be of assistance to district planning, the activities
8 of the district, or the activities of the various agencies, organ-
9 izations, instrumentalities or individuals concerned.
10 63067 The district shall, if authorized to provide air pol-
11 lution control, establish and execute an effective program for
12 the reduction of air contaminants within the district.
13 63068. The council may by resolution declare it necessary
14 that the district adopt rules and regulations to control the re-
15 lease of air contaminants in order to reduce or alleviate air
16 pollution within the district. Such determination shall be
17 based on surveys and studies made by the district and such
18 other information as may be available to the district. The de-
19 termination shall be made only after the council has consid-
20 ered the matter at a public hearing at which all interested
21 persons are afforded the opportunity to appear and urge or
22 oppose adoption of the resolution. The council shall give notice
23 of its intention to adopt the resolution and give notice of the
24 hearing by publication pursuant to Section 6061 of the Gov-
25 ernment Code in each of the counties within the district not
26 less than 10 days prior to the hearing. The notice shall con-
27 tain the time and place of the hearing and such other informa-
28 tion as may be necessary to reasonably apprise the people
29 within the district of the nature and purpose of the meeting.
30 The hearing may be adjourned from time to time in order to
31 permit presentation of all pertinent testimony.
32 Upon the conclusion of the hearing, if the council deter-
33 mines it to be necessary to adopt rules and regulations to
34 control the release of air contaminants, the council shall so
35 declare by resolution.
36 63069 Whenever the council finds that the air in the dis-
37 trict is so polluted as to cause discomfort or property damage
38 at intervals to a substantial number of inhabitants of the dis-
39 trict, the council may make and enforce such general orders,
40 rules, and regulations as will reduce the amount of air con-
41 taminants released within the district, but no order, rule or
42 regulation of the council shall specify the design of equip-
43 ment, type of construction, or particular method to be used in
44 reducing the release of air contaminants.
45 63070. The council at any time may require from any per-
46 son subject to regulations of the council, such information or
47 analyses as will disclose the nature, extent, quantity, or degree
48 of air contaminants which are or may be discharged by such
49 source, and may require that such disclosures be certified by
50 a professional engineer registered in the State. In addition to
51 such report, the council may designate and employ a registered
52 professional engineer of his choice to make an independent

study and report as to the nature, extent, quantity, and degree of any air contaminants which are or may be discharged from the source. An engineer so designated is authorized to inspect any article, machine, equipment or other contrivance necessary to make the inspection and report.

63071. If any person within a reasonable time wilfully fails or refuses to furnish to the council information or analyses requested by such council, or if the council finds that any order, rule or regulation of the council is being violated after a reasonable time has been allowed for compliance, the council shall request a public hearing on the matter.

63072. Within 30 days after the council has requested a public hearing, it shall hold such a hearing and give notice of the time and place of such hearing to the person cited and to such other persons as the council deems should be notified, not less than 10 days before the date of the public hearing.

63073. After a public hearing, the council may find that no violation exists, or may take any appropriate action.

63074. Any violation of any order, rule, or regulation of the council may be enjoined in a civil action brought in the name of the people of the State of California.

63075. A district may, if authorized, develop a program for the purpose of developing, storing and distributing water for domestic purposes.

63076. A district authorized to supply water shall have the power to: (1) acquire water and water rights within or without the State; (2) to develop, store and transport water; (3) to provide, sell and deliver water at wholesale for municipal and domestic uses and purposes; (4) to provide, sell, and deliver water and water service to the United States of America, or to any board, department or agency therefor, or to the State of California, for any use or purpose, pursuant to contract therefor, which contract may be for permanent service, but shall provide for the furnishing of such water or water service upon terms and conditions and at rates which will apportion an equitable share of the capital cost and operating expense of the district's works to the contractee, and every such contract shall provide that at the end of five years from the date of its execution and every three years thereafter there shall be such readjustment of the contract, upon the demand of either party thereto, either upward or downward as to rates, as the council may find to be just and reasonable in order to effectuate such equitable apportionment of the said capital cost and operation expense, and all water so contracted to be furnished by the district shall be deemed not to be surplus water available for sale pursuant to the provisions of Section 63077.

63077. A district shall also provide, sell and deliver surplus water of the district not needed or required by municipalities, the corporate area of which is included in such district, for domestic or municipal uses therein, for beneficial purposes, but giving preference to uses within the district,

The supplying of such surplus water shall, in every case, be subject to the paramount right of the district to discontinue the same, in whole or in part, and to take and hold, or to provide, sell and deliver, such water for domestic or municipal uses within the district, upon one year's written notice to the purchaser or user of such surplus water, such notice to be given by the council whenever it shall be determined and declared by resolution adopted by said council by a two-thirds vote thereof that such water is needed or required by any municipality, the corporate area of which is included within said district, for domestic or municipal uses therein.

78 If a district is authorized to perform the function of sewage disposal, it shall have the following powers:

(1) To prepare a comprehensive sewage disposal and storm water drainage plan for the area

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for sewage disposal and storm water drainage within or without the area, including trunk, interceptor and outfall sewers, whether used to carry sanitary waste, storm water, or combined storm and sanitary sewage, lift and pumping stations, sewage treatment plants, together with all lands, properties, equipment and accessories necessary for such facilities.

(3) To fix rates and charges for the use of metropolitan sewage disposal and

(4) To acquire by purchase, condemnation, gift, or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of sewage or storm water in the area

63079 If a district is authorized to perform the function of public transportation, it shall have the following powers:

(1) To prepare and develop a comprehensive plan for public transportation service which will best serve the residents of the area.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of transportation facilities, including systems of surface, underground or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including passenger terminal and parking facilities, together with all lands, rights-of-way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities which are owned by any city may be acquired or used by the district.

(3) To fix rates and charges for the use of such facilities.

63080 A district, if authorized to perform the function of parks and parkway, may plan, adopt, lay out, plant, and otherwise improve, extend, control, operate, and maintain a system of public parks, playgrounds, beaches, parkways, scenic drives, boulevards, and other facilities for public recreation, for the use and enjoyment of all the inhabitants of the district,

and it may select, designate, and acquire land, or rights in land, within or without the district, to be used and appropriated for such purposes. It may cause such parkways, scenic drives, and boulevards to be opened, altered, widened, extended, graded or regraded, paved or repaved, planted or replanted, repaired, and otherwise improved, and may do all other things necessary or convenient to carry out the purposes of this chapter.

The council shall not interfere with control of any existing public park, playground, beach, parkway, scenic drive, boulevard, or other public property, owned or controlled by a municipality or county in the district, except with the consent of the governing body of the municipality, or of the county if the same is in unincorporated territory, and upon such terms as may be mutually agreed upon between the council and the governing body.

63081. A district, shall, if authorized to perform the function of law enforcement, protect and safeguard life and property and may equip and maintain a police department, including purchasing and maintaining ambulances, and otherwise securing police protection

63082 The council shall determine the number of employees, if any, necessary for the proper care and protection of the life and property of residents in the district. It shall appoint all district employees and prescribe their duties and compensation.

63083 The district may contract with a municipality within the district or with a county for the furnishing of police protection service by any police agency of the municipality or county

63084. For the purpose of housing its police equipment and apparatus, and for housing its ambulances, the council may acquire land and erect a police station; or acquire land on which a police station, or a building suitable for a police station, has been erected.

63085. If authorized to perform the function of fire protection, the district shall have the power:

(a) To establish, equip and maintain a fire department, and to establish and enforce rules and regulations for the administration, operation and maintenance thereof.

(b) To provide and maintain any and all special service functions necessary for the prevention of fire and for the protection of life and property from fire and panic, including the investigation of fire and prosecution of crimes of arson.

(c) To purchase and maintain ambulances and operate ambulances or ambulance services within and without the district.

(d) To establish, equip, maintain and operate rescue and first aid services within and without the district.

(e) To clear or order the clearing of land or remove or order the removal of dry grass, stubble, brush, rubbish, litter, or other flammable material, if, in its judgment, the flammable material endangers the public safety by creating a fire hazard.

63086. To the extent that it is not inconsistent with the California Disaster Act, a district may, if authorized, perform the function of civil defense

63087. Those powers necessary to the complete and proper performance of any one of the functions delegated to the district shall be considered vested in the district upon the assignment of that function to the district, or as otherwise provided in this chapter.

63088. A district may contract with the United States or any agency thereof, any state or agency thereof, any other metropolitan municipal corporation, any county, city, special district, or governmental agency for the operation by such entity of any facility or the performance of any function which the district may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties.

Article 7. General Powers and Duties

63090. A district may take or acquire real or personal property of every kind within or without the district by grant, purchase, gift, devise, lease, or condemnation pursuant to eminent domain proceedings in accordance with Title 7, Part 3 of the Code of Civil Procedure; provided, the district, in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wire, cables or poles of any public utility which is required to be removed to a new location.

63091. A district may hold, use, enjoy, lease or dispose of any of its property.

63092. A district may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

63093. A district may make contracts for any and all purposes necessary or convenient for the full exercise of its powers.

63094 A district has perpetual succession.

63095. A district may adopt a seal and alter it at pleasure

63096. A district may employ labor and professional services.

63097. A district may perform any work of construction or operation under its own superintendence or may contract for the performance of such work by others.

63098. A district may prescribe, revise and collect rates or other charges for the services and facilities furnished by it.

63099. A district may construct any works along, under, or across any street, road, highway, or other property devoted to a public use subject to consent of the governing body in charge of such public use

63100. A district may enter into an agreement with any public or private corporation whereby any work or improvement may be operated and maintained by the corporation. The

power to make such an agreement is conditioned upon a finding by the board that the residents of the district would be better served by such operation and maintenance.

63101. A district shall have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. A district may take any property necessary or convenient to the exercise of the powers granted in this chapter, whether the property is already devoted to the same use or otherwise. In the proceedings, venue, and trial relative to the exercise of the right the district has all the rights, powers, and privileges of an incorporated city and all rights, powers, and privileges conferred in this chapter. A district shall proceed in the name of the district in condemnation proceedings.

63102. The council shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees solely on the basis of merit and fitness without regard to political influence or affiliation. The person appointed or the body created for the purpose of administering such personnel system shall have power to make, amend and repeal rules and regulations as are deemed necessary for such merit system Such rules and regulations shall provide·

(1) That the person to be discharged or demoted must be presented with the reasons for such discharge or demotion specifically stated; and

(2) That he shall be allowed a reasonable time in which to reply thereto in writing and that he shall be given a hearing thereon within a reasonable time.

63103. Where a district employs a person employed immediately prior thereto by a city or county, or by a special district, such employee shall be deemed to remain an employee of such city, county, or special district, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the city, county, or special district, until the district has provided a pension plan and such employee has elected, in writing, to participate therein.

Until such election, the district shall deduct from the renumeration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the plan of such city, county, or special district and the district shall pay to the city, county, or special district any amounts required to be paid under the provisions of such plan by employer or employee.

63104. Where the district employs a person employed immediately prior thereto by a city, county, or special district, the employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any sick leave credit plan of the city, county, or special district until the district has established a sick leave credit plan for its employees, whereupon the district shall place to the credit of

the employee the sick leave credits to his credit in the plan of such city, county, or special district.

Where a district employs a person theretofore employed by a city, county, or special district, the district shall, during the first year of his employment by the district, provide for a vacation with pay equivalent to that which the employee would have been entitled had he remained in the employ of the city, county, or special district.

Article 8 District Manager

63110. The district council shall appoint a duly qualified district manager who shall receive an annual salary fixed by the district council.

63111. The manager shall be the chief administrative officer of the district and technical adviser to the council.

63112. The manager shall, subject to the supervision of the council:

(1) Direct, administer and execute all of the functions and duties of the district set forth in this chapter.

(2) Appoint and remove personnel of the district.

(3) Serve, or designate personnel to serve, as executive secretary to the council.

(4) Serve, or designate personnel to serve, as secretary to the official representatives and technical advisory committees, including reasonable services in respect to the organization, calling of meetings, distribution of reports, and any other activities which such official representatives or technical advisory committees, or any subcommittees thereof, may wish to undertake in the furtherance of their own functions.

(5) Have access, or designate personnel to have access, to information, reports, and data which relate to the functions and duties of the district in the possession of departments, agencies, or instrumentalities of the State, or in the possesion of departments, agencies or instrumentalities of cities or counties within the district.

(6) Enter upon, or designate personnel to enter upon, at reasonable times and in such manner as to cause no unnecessary injury, any land in order to make examinations and surveys related to the functions of the district.

(7) Perform such other duties and exercise such other power as the council may delegate to him.

Article 9 Financial Provisions

63115. A district may borrow money and incur or assume indebtedness and it may issue bonds or other evidences of such indebtedness; provided, however, that no district shall incur any funded indebtedness which shall in the aggregate exceed 15 percent of the assessed valuation of all real and personal property situated within the district. The limitation of this

section applies only to indebtedness which is to be paid by an ad valorem tax on real property.

63116. Before issuing bonds, the council shall adopt a resolution calling an election within the district upon the issuance of bonds, and such resolution shall be published as a notice of the election, in accordance with the provisions of Sections 58006 and 58007 of the Government Code.

63117 At the election any qualified and registered elector residing within the district may vote. If at the election, two-thirds ($\frac{2}{3}$) of the voters, voting thereat, shall vote in favor of the issuance of the bonds, the council is thereupon authorized to issue the bonds.

63118 Before the fifteenth day of June of each year the council shall estimate and determine the amount of money required by the district for purposes of the district during the ensuing fiscal year, including the amount needed to meet the bonded indebtedness of the district and the interest thereon, and shall apportion this amount to the counties included within the district, one-half according to the relative value of the real estate of each county within the district as determined by the council and one-half in the proportion that the population of each county bears to the total population of the district For the purposes of this section the council shall base its determination of the population of the several counties on the latest official information available to it.

63119. On or before the fifteenth day of June of each year, the council shall inform the boards of supervisors of each county of the amount apportioned to the county. Each board of supervisors shall levy an ad valorem tax on the taxable property, but not including intangible personal property, within the county included within the district sufficient to secure the amount so apportioned to it and such taxes shall be levied and collected and paid to the treasurer of each of the counties to the credit of the district

This section is not intended to prohibit the use of other appropriate and available means by each county to meet the obligation of the amount apportioned to it by the district.

63120 Taxes levied by the board of supervisors for the benefit of the district shall be a lien upon all property within such county lying within the district and shall have the same force and effect as other liens for taxes. Their collection may be enforced in the same manner as liens for county taxes are enforced.

63121. Improvement districts may be formed in a district for any authorized purpose of the district in the same manner as improvement districts are formed in irrigation districts When formed, such improvement districts shall be governed in the same manner as improvement districts in irrigation districts.

63122 The council shall have the same rights, powers, duties and responsibilities with respect to the formation and government of improvement districts in districts as the board

of directors of an irrigation district has with respect to improvement districts in irrigation districts.

63123. Assessments in an improvement district in a district shall be levied, collected and enforced at the same time and in as nearly the same manner as practicable as annual taxes for purposes of the district in which formed, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts.

63124. The improvements to be constructed or acquired are restricted to those permitted to be constructed or acquired pursuant to Section 63060.

63125. Bonds issued pursuant to this chapter shall be issued as follows:

(a) A part, to be determined by the council, which shall be not less than one-thirtieth of the whole amount of the indebtedness, shall be payable annually at a date and place specified.

(b) The date of the first bonds maturing may at the discretion of the council, be postponed not more than five years from the date of issuance.

(c) The interest to be paid shall be stated upon the bond and shall not exceed the rate specified in the notice of election on the issuance of such bonds.

(d) The denomination of the bonds shall be fixed by the council, but shall not be less than one hundred dollars ($100) or more than one thousand dollars ($1,000) each.

(e) The bonds shall be signed by the district manager. One of the signatures may be facsimile by use of an engraved or lithographed signature.

(f) Interest coupons shall be numbered consecutively and signed by the district manager in like manner as the bonds.

63126. Such bonds shall be sold by, or on behalf of the district for not less than the face value thereof. Before selling the bonds, or any part thereof, the council shall give notice not less than 10 days prior to the date of sale by publication in a newspaper of general circulation circulating in the district inviting sealed bids in such manner as the council shall prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the council determines that the bids received are not satisfactory as to price or responsibility of the bidders, the council may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

63127. In case the term of office of any officer whose signature is required upon a bond or coupon expires before delivery of such bond or coupon, his signature thereon shall be valid for all purposes connected with such bond or coupon, or if the term of office of such officer expires or he is removed from office or resigns or his office is otherwise vacated before the bonds and coupons have been signed, then the signature of his elected or appointed successor shall be placed on the bonds

or coupons and shall be valid for all purposes connected with such bond or coupon.

63128. The proceeds of sale of all bonds so issued shall be deposited and shall be withdrawn only upon the order of the council or puruant to its directions and only for carrying out of the purposes for which the bonds were issued.

63129. Notwithstanding any other provision of this chapter, a district may authorize, issue and sell revenue bonds pursuant to the provisions of Chapter 6, Part 1, Division 2, Title 5 of the Government Code to provide funds for the acquisition, construction, improving or financing any one or more revenue producing enterprises for any one or more of the purposes specified in Section 63060 for which such district has been authorized to perform.

Article 10. Modification and Dissolution of a District

63135. Any county which is contiguous to a district may join said district for the purpose of the performance of any or all of the functions of the district upon appointment and certification of its proper number of members to the council as provided in Article 5, and upon the affirmative resolution of the council of the annexing district.

63136. Members of a metropolitan council in multicounty districts, shall enter into the deliberations of that council only in regards to that function or those functions as are properly established within their component county.

63137. Notice of meeting for the convening of the council shall specify the agenda of that meeting as well as the representatives of which component county should be in attendance.

63138. The council shall at all times be properly constituted for the transaction of business as provided in Article 5.

63139. A district may be dissolved in the following manner:

1. The boards of supervisors of the counties containing more than fifty percent (50%) of the population of the entire district shall adopt a resolution stating that the existence of the district is no longer necessary or desirable for the public welfare, and announcing the intention to withdraw therefrom and to dissolve the district.

2. The resolutions so adopted shall be communicated to the clerks of the boards of supervisors of all counties comprising the district and also to the council.

3 If it appears that the resolutions were adopted by the boards of supervisors in the counties desiring to withdraw, and that such counties contain more than fifty percent (50%) of the entire population in the district, the council, by resolution, shall call an election to determine the question of dissolution. The resolution shall state the time and place and purpose thereof, establish election precincts, designate polling places, and appoint election officers and, in all respects not provided in this section, the election shall be held and conducted, as

1 nearly as practicable, in the same manner as elections for
2 county officers in the counties. In the event such election shall
3 be consolidated with any other election, the resolution calling
4 the election hereunder need not describe the precincts, polling
5 places, or appoint officers of election, but may refer to the
6 ordinance, order, resolution or notice calling or providing for
7 such other election, or listing or designating the precincts,
8 polling places, and election officers therefor for the precincts,
9 polling places and officers of election for the election called
10 hereunder. Such resolution shall be published pursuant to
11 Section 6066 of the Government Code in each county within
12 the district and the first publication shall be at least 30 days
13 prior to the date of election.
14 4 If a majority of the qualified electors voting at such elec-
15 tion vote in favor of such dissolution, the council shall declare
16 the results of the election, proceed to wind up the affairs of
17 the district, and pay all indebtedness thereof. Any surplus
18 funds shall be paid over to the counties in which the district
19 lies in proportion to the amount last previously apportioned
20 by the board to each county for purposes of levying taxes. The
21 council shall exercise only such powers and secure such revenue
22 from taxation as shall be necessary to wind up the affairs of
23 the district.
24 5 Upon the completion of the process of winding up the
25 affairs of the district, the council shall, by resolution, entered
26 upon its minutes, declare the district dissolved. A certified
27 copy of such resolution shall be filed with the county recorder
28 of each county within the district and with the Secretary of
29 State. Upon the adoption of such resolution the district shall
30 be dissolved.

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FULL REPORT

INTRODUCTION

The California State Legislature has been concerned with metropolitan problems and their solutions for many years, and legislative interim studies and reports on this subject are numerous. One of the latest was prepared in 1957 by the Bureau of Public Administration of the University of California at Berkeley,[1] at the request of the Assembly Interim Committee on Conservation, Planning, and Public Works. This study reviewed the organizational devices currently being utilized or proposed for use in metropolitan areas throughout the United States and Canada. It was designed to furnish metropolitan communities in California information upon which to assess their metropolitan problems and develop new governmental forms

Three conclusions basic to the development of a general metropolitan governmental form for use in California were contained in this report.

1. *The fundamental problem of metropolitan government originates from a contradiction between the underlying unity of a metropolitan area and its normally fragmented governmental structure.* The existence of this problem has been emphasized in meetings of representatives of California cities and counties. In an address before the fifty-ninth annual conference of the California League of Cities, Patrick Healy, Jr., concluded that an analysis of 89 recently completed metropolitan surveys of cities throughout the United States showed one consistent area of agreement.

> The serious consequences of the absence of any areawide authority to cope with areawide needs and problems is probably the greatest point of agreement Whether the primary concern is transit, water, sewers, health, or planning, the question of how fragmented government can cope with what are essentially single areawide problems seems to be the most complex presented in the survey reports.[2]

Speaking for the California counties, William R. MacDougall, General Counsel and Manager of the County Supervisors Association of California, states:

> Our own special district situation is bad. The multiplicity of independent districts is the biggest factor in county government's difficulties involving urban and metropolitan problems. This is true in counties from the size of El Dorado on up. In the large counties, this problem is stupendous—and will eventually require state legislative attention and action[3]

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[1] California Legislature, Assembly Interim Committee on Conservation, Planning, and Public Works, *Adopting Government to Metropolitan Needs*, Assembly Interim Committee Reports, 1955-57, Vol 13, Number 11, January, 1957

[2] Patrick Healy, Jr , Address to the California League of Cities, 59th Annual Conference, September 23, 1957, page 8

[3] William R MacDougall, Excerpts from Report of the General Counsel and Manager to the County Supervisors Association of California at the 48th Annual Meeting, Fresno, California, September 24, 1958, Appendix I, page 55

2. *All portions of the metropolitan area are interrelated with all other portions, and the several functions of a metropolitan complex are interdependent.* This point may be illustrated by the following examples:

a. People who live in one part of the metropolitan community may work in another part and do their daily shopping at some point in between.
b. Urban populations in their movement flow unimpeded across local boundary lines.
c. The spread of contagious disease, or the dispersal of air pollutants, respects no artificial political boundaries.
d. Stream and lake pollution affect the health and recreation of the entire community.

Summarily, almost anything of significance that happens in one part of a metropolitan area will have some effect on people living in other parts. A web of interrelationships creates a community of interest encompassing the whole metropolitan area.[4]

These two preceding conclusions lead directly to a third and final conclusion resulting from the bureau's study.

3. *Each metropolitan area needs a metropolitan representative body whose task it would be to make decisions and establish policy matters of areawide concern.* It is felt that,

> * * * the creation of an areawide policymaking body would be an ideal solution to the problem of metropolitan government. Such a solution need not impair the recognized values embodied in the pre-existing local government, but could aid in preserving those values by helping to improve local performance.[5]

It is from this point that the subcommittee on planning began its latest interim investigation relative to the development and acceptability of a general law metropolitan multipurpose district for use in California metropolitan areas.

REQUISITE FEATURES OF THE METROPOLITAN GOVERNMENT

The two factors upon which metropolitan government proposals normally are judged, and upon which most, if not all, have been found wanting, are political feasibility and structural adequacy Political feasibility is a measure of whether or not the proposed metropolitan government arrangement is acceptable to those seeking such a government, while structural adequacy is a measure of whether or not that unit of government is equipped to perform effectively the job intended of it.

The subcommittee, through hearings and staff investigation, is convinced the metropolitan multipurpose district as proposed in the legislation submitted with this report is both acceptable and structurally adequate.

[4] "Adapting Government to Metropolitan Needs," *loc. cit.*
[5] *Ibid*

Political Feasibility

Political acceptability of the proposed metropolitan multipurpose district act is supported by its compliance to the following findings of the subcommittee.

1. *The creation of an areawide policymaking body should not impair the recognized values embodied in existing local government.* This is the essence of certain general criteria and principles adopted and approved by the Berkeley City Council for its own use in evaluating legislation proposing the creation of metropolitan agencies. In fact, that body believes that, "* * * *the principles involved in these criteria might well form the basis for the drafting of legislation designed to provide for metropolitan multipurpose districts.*"[6]

These principles and criteria include:

1. The right of self-determination must remain with the citizens acting through their closest unit of local government—the city.
2. The best interests of the people of this State and Nation require the maintenance of strong, healthy cities which have the right of home rule and which provide local governmental services and perform local governmental and policy-making functions.
3. The complete political consolidation of existing local governmental units (cities and/or counties) to form an area or regional government for any California metropolitan area is unsound and must be rejected.

* * * * * * *

5. When single service or related services districts are created the legislature must include provisions:

* * * * * * *

   b. To provide for local control and direct local responsibility through a governing body responsible to the cities and counties within the district.[7]

These and other principles and criteria have been utilized in the preparation of the legislation recommended in this report.

In reference to the emerging pattern of metropolitan government in the San Francisco Bay area, Wes McClure, City Manager of San Leandro, presented a statement indicative of the pattern of metropolitan government considered acceptable by local government.

> The structure of the metropolitan government is of paramount importance. The easy, superficial out of trying to pattern ourselves after structures found in other metropolitan areas of our county could be hazardous indeed, since organization structures should reflect the specific problems, the need for action and the political democracy environment of the area. Our emerging metropolitan structure here was based upon making it:
>
> a. Politically responsible,
> b. Locally rooted, and
> c. Permissive of a co-ordinated approach to areawide problems.

[6] Claude B. Hutchison, presentation to the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning, and Public Works, at the hearing held in San Francisco, California, December 16, 1958, Appendix II, page 57.

[7] *Ibid*, pages 59 and 60.

> Basically what this means is an "evolutionary federation" approach rather than a "super-government" approach · a recognition of the important continuing role of existing local government rather than governmental consolidation; a recognition that in organizing to take care of one metropolitan problem, you should not at the same time propagate an inherent organization blindness toward other problems of the metropolitan area.[8]

Support to the above statements, is furnished by Richard Carpenter, Executive Director and General Counsel of the League of California Cities when he quotes Morton Grodzins of the University of Chicago:

> There are alternative methods, far short of full scale metropolitan government, of achieving needed, local structural changes. These have the twin virtues of being politically feasible and administratively effective. They can do what is needed without the undesirable side effects of large scale metropolitan reorganization.[9]
>
> Mr. Carpenter also indicated that he is in agreement with the statements of the city officials of Berkeley and San Leandro.

An acceptable formula for the creation of an areawide policymaking body has been developed and utilized in the establishment of single purpose metropolitan districts. This formula was developed by the Assembly Interim Committee on Conservation, Planning and Public Works for the Bay Area Air Pollution Control District passed in the 1955 Session of the Legislature.

> This formula in simple terms, creates a policy determining agency without establishing another layer of government. This is accomplished by the simple device of creating a board of directors consisting of one supervisor selected by the board of supervisors of each county and one councilman selected by the councilmen and mayors of each city in the county. The result, while not strictly representative of population or assessed valuation, is nevertheless easy to understand and simple to effectuate.[10]

The acceptability of this pattern for organizing and area-wide policymaking body has resulted in its use as a prototype for the creation of other regional and metropolitan agencies. During the 1957 Session of the State Legislature, two other bills were passed utilizing the same formula for the organization of regional and metropolitan planning districts. These bills are Assembly Bill No. 1624 by Senator Farr, which became Chapter 1766, Statutes, 1957, requiring the Local Planning Advisory Committee of the Department of Finance to divide the State into regional planning districts and following this action each district is required to establish a planning commission, and, Assembly

[8] Wes McClure, *The Emerging Pattern of Metropolitan Government in the San Francisco Bay Area*, statement delivered before the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning, and Public Works, San Francisco, December 16, 1958, Appendix III, pages 62 and 63

[9] Richard Carpenter, statement to the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning, and Public Works, San Francisco, December 16, 1958, Appendix IV, page 67

[10] California, Legislature, Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning, and Public Works "Progress Report" of March 31, 1958, page 357

Bill No. 2860 by Assemblyman Allen, which became Chapter 2001, establishing legislation permitting two or more counties to combine into a planning district on resolution of the boards of supervisors of each county.

This same pattern is also acceptable for use in the establishment of metropolitan multipurpose districts It is generally acknowledged by those familiar with its use in the San Francisco Bay area that the above method for organizing single-function metropolitan districts could work equally as well in the case of one overall agency performing all of the established areawide functions. In fact, the precise objective in the Bay area is to allow eventual consolidation of regional programs and functions by creating each areawide single-function district identical in appointment and representation to the pattern used in the Bay Area Air Pollution Control District. As Wes McClure, City Manager of San Leandro, cites in the creation of the San Francisco Bay Area Rapid Transit District.

> The similarity of appointing authority and appointing procedure was no happenstance.
>
> * * * * * * *
>
> One of the most active groups to sponsor the parallel pattern of organization and appointment was the Alameda County Mayors' Conference composed of all the mayors of all the cities in Alameda County. The following is a resolution that was passed unanimously by this group,
>
> **RESOLUTION PROPOSING THE METHOD OF SELECTION OF THE GOVERNING BOARD OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**
>
> * * * * * * *
>
> WHEREAS, Any such regional organization should have a governing board that is politically responsible to local communities, in order to co-ordinate local and regional policy and programs, as well as to obtain local community support; and
>
> WHEREAS, A parallel pattern of organization should be established for each single-purpose program (i.e, air pollution, rapid transit, etc), so that when future consolidation of regional programs and functions is feasible under one overall governing board, such consolidation can be made by the elective representative of local government in the Bay area.
>
> * * * * * * *
>
> Now, therefore, be it *resolved,* that the Mayors' Conference of Alameda County go on record proposing that the same parallel pattern of appointment and representation be used in establishing the governing board of the Bay Area Rapid Transit District.[11]

2. *The authority of the metropolitan areawide governing body must derive from local sources, and in fact be a combination of the powers of local authorities.* It is apparent that existing city and county governments need not be invalidated when it is acknowledge that local governments in California have the powers to resolve recognized metropolitan problems within their own jurisdictions. It has been observed that the functions performed by city governments are the most numer-

[11] McClure, *op. cit.* Appendix III, page 64.

ous and varied of those provided by local governmental units. In fact, a California city may perform almost any function not in conflict with state or national laws.[12]

As for county government,

> One needs only to run down the list of the recognized functions of "metropolitan government" to see clearly how well-prepared California counties really are:
>
> This list of services is typical:
>
> (1) Highways (and rapid transit);
> (2) Health services;
> (3) Hospital operation;
> (4) Welfare programs;
> (5) Law enforcement;
> (6) Planning;
> (7) Zoning;
> (8) Parks and recreation;
> (9) Air pollution control;
> (10) Sanitation and sewerage;
> (11) Water supply.
>
> In almost every one of these fields, California counties have extensive and successful experience.[13]

Since California local governments are equipped to handle most metropolitan problems within their individual boundaries,

> The only factor which distinguishes the so-called metropolitan problem from the local problem is the greater area over which the problem has common and continuous incidence Thus, it follows that the action needed is merely the extension of the scope of existing powers commensurately with the scope of the recognized problem. Innovations in neither the nature of powers, nor in their employment are needed The simplest and best objective is a vehicle for combining and using in concept the powers we already have, in the forms with which they are accustomed to operate.[14]

The metropolitan multipurpose district as proposed in this report is such a vehicle.

3. *The California tradition of local home rule and self-determination should be continued and strengthened.* The importance of this consideration to the acceptability of a metropolitan areawide policy-making body is evidenced by the "Principles of County Home Rule" adopted by the counties of California at the 47th annual meeting of the county supervisors of California, September 20, 1957. William R MacDougall, in speaking for the County Supervisors Association of California, states that " * * * to make the contribution to metropolitan government for which their position on the California map has so

[12] Winston W Crouch, et al, *State and Local Government in California* (Berkeley University of California Press, 1952) pages 185-201

[13] MacDougall, *op cit*, Appendix I, page 54

[14] John R Ficklin, City Manager of Vallejo, California, statement to the Subcommittee on Planning, Assembly Interim Committee on Conservation, Planning, and Public Works, at a hearing in San Francisco, California, December 15, 1958, Appendix V, page 71.

admirably fitted them, counties must first attain true home rule status." [15]

Likewise, the League of California Cities has developed the following policy statement emphasizing the importance of strong cities to handle local functions and determine policy matters as basic to the development of areawide government for the solution of metropolitan problems. This policy statement has been adopted in principle by the board of directors of the league, and the language approved by the executive committee.

A STATEMENT OF PRINCIPLES ON METROPOLITAN PROBLEMS

Preamble

With the vast increase in urban living and urban population has come the growth of urban areas which extend beyond the boundaries of a city or a county and include numbers of cities and counties and urban unincorporated areas.

With these metropolitan areas, problems and needs have arisen which require action on an areawide basis. Great public interest and some demand has arisen for the development of means for satisfying these areawide needs and solving the areawide problems.

Theories, ideas and proposals are being advanced from many sources. Various types of districts are being proposed and formed Many of the theories and proposals fail to distinguished between area problems and needs, and local problems and needs in a metropolitan area, and propose to treat both in the same manner

Recognizing the need for workable solutions to the areawide problems and at the same time firmly believing in the necessity for the continuance of strong cities providing local services and functions on a local basis and determining policy on municipal affairs, the time has arrived for the cities of this State to adopt a basic set of principles to be used as a uniform guide in judging and formulating proposals for solutions of metropolitan area problems, and to establish an orderly procedure for isolating area problems and proposing solutions therefor.

General Principles

To serve these purposes the following general principles and procedures are formulated and proposed to the cities of California:

1. The right of local self-determination should remain with the citizens acting through their closest units of local government.
2. The best interests of the people of this State and Nation require the maintenance of strong, healthy cities which have the right of home rule and which provide local governmental services and perform local governmental and policy-making functions.
3. Local municipal affairs, involving policymaking, enforcement of laws and regulatory measures and governmental

[15] MacDougall, *op cit*, Appendix I, page 54.

activities, are not proper subjects for inclusion in regional or metropolitan government and should be retained by the cities.

4. The complete political consolidation of all existing local governmental units (cities and/or counties) to form a regional government for any California metropolitan area is basically unsound.
5. Functions and services performed by a city or a county should not be removed from a city or county and incorporated in a regional or metropolitan agency without the consent of the city or the county.
6. Centralization or consolidation of services does not necessarily result in efficiency, economy or better government. Any proposal for centralization or consolidation of any function now performed by a city or a county on the basis of reducing costs and increasing efficiency should be rejected until after such savings and increased efficiency are demonstrated and equated against non-economic losses, such as: surrender of vital municipal powers, loss of responsiveness to needs and desires of the people, loss of standards of performance or enforcement, loss of character of the community, and creation of large unwieldy administrative organization.
7. There is no single solution for all problems in a metropolitan area. Each problem and each function or service proposed or considered for action on an areawide governmental unit must be carefully examined and a determination made only after complete studies which include consideration of the principles herein enumerated.
8. The problems of metropolitan areas vary and the solutions for one may not be applicable to another.
9. After analysis and complete study, and subject to such general principles, certain broad categories of service and functions which lend themselves to areawide performance and to possible inclusion in metropolitan government may include:
   a. Utility type services such as:
      Water;
      Electricity;
      Transportation.
   b. Service functions, activities and professional services such as:
      Sewage disposal;
      Flood control;
      Garbage and waste disposal.
      Laboratory services.
   c. Functions which by their very nature require areawide treatment such as:
      Air pollution control;
      Regional planning.

10. When single service or multipurpose districts are created the legislation should include provisions:

    a. To insure that the district be organized in a manner which will permit it to combine with other districts so as to make a combination of districts into a unit of metropolitan government possible at a future date, if and when such action becomes necessary and desirable

    b. To provide for local control and direct local responsibility through a governing body responsible to the cities and counties within the district and selected by and serving at the pleasure of the legislative bodies of the cities and counties. This shall not preclude the selection of any member of such legislative bodies and such members may serve concurrently as members of such legislative bodies and as members of the governing body of the district.

    (Examples of methods of formation of the governing bodies of districts to meet these criteria are: The Metropolitan Water District in the Los Angeles area, and the San Francisco Bay Area Air Pollution Control District.)

11. The area proposed to be included in a district or unit of metropolitan government must be in fact the area best suited for the purpose proposed or in which to render the service or services proposed, as determined by all factors, and the requirements of the particular service or services to be rendered.[16]

The metropolitan multipurpose district as provided for in the proposed legislation both strengthens and enlarges the concept of local home rule in California It strengthens the concept in that it acknowledges the powers, duties, rights and privileges of the existing city and county governments. It enlarges the concept of home rule by allowing unified action of existing local governments in those areas of common concern as a metropolitan areawide government.

Structural Adequacy

The metropolitan multipurpose district form contained in the proposed legislation is structurally adequate. The following three general tests can be applied to determine structural adequacy in a metropolitan government: areawide jurisdiction; performance of governmental operations; and financial support. Each one of these areas have been explored during the course of hearings and investigation and have been appropriately incorporated into the legislation submitted with this report.

4. *To operate effectively as an areawide government the metropolitan multipurpose district must have areawide jurisdiction.* The prime objective in creating a metropolitan government is to meet and solve areawide problems on an areawide basis. Such areawide jurisdiction must include the full defined metropolitan area, as dictated by the limits of the areawide problems. However,

[16] League of California Cities, "A Statement of Principles on Metropolitan Problems," see Appendix VI, pages 72-74.

> If the legislation is general in scope and applicable to any of California's several metropolitan regions, the provisions for determining the area to be served, and for enlarging the area, should allow for a good deal of flexibility and variety.
>
> Inclusion of all or portions of one or more counties should certainly be permitted as well as one or more cities.[17]

In addition,

> Another element of flexibility would be added if the designated area of district activity could be varied according to the function performed. For example, the district might be two-county in scope for the purposes of sewage disposal, and five-county for regional planning.[18]

There is no doubt, however, as to the acceptable geographical base as a metropolitan district minimum area provision.

> Counties, which are by tradition accepted units of government and which have made significant progress in recent years should be used as the geographical basis for the establishment of metropolitan districts. * * *[19]

For complete flexibility, the jurisdictional limits of the metropolitan government must be allowed to expand, or the original condition of the area of jurisdiction not fitting the area of the problem may be recreated. It is advised that,

> The addition of new territory to the district after its original formation could follow one or more of several courses. The legislative body of any city or county might be empowered to request extension of the district's activities, or a popular vote within the area in question might be required. Presumably the district's legislative body would have to be consulted before territory could be added, and would also be able to initiate annexation proceedings.[20]

5. *The metropolitan multipurpose district must have full control over those areawide functions assigned to it with sufficient authority and the proper administrative organization to perform its responsibility.* Aside from whatever powers or limitations that are built into the metropolitan government, where a function is assigned to that government full control and necessary authority for the successful performance of that function must also be assigned. The metropolitan problem itself is the best example of the lack of full control by any areawide agency over the functions needed to be performed on an areawide basis. In addition, the placing of full control in the hands of one agency makes possible the pinpointing of responsibility for successful or unsuccessful performance of the function. Victor Jones, Professor of Political Science at the University of California at Berkeley, described what is regarded as proper author-

[17] Stanley Scott, "Metropolitan District Legislation: Some Problems and Issues." Statement presented at a hearing of the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning, and Public Works, San Francisco, December 16, 1958, Appendix VII, page 75.

[18] *Ibid.*

[19] J. P. McBrien, County Administrator for Contra Costa County, in a letter to the Honorable Thomas Rees, Chairman of the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning and Public Works, December 5, 1958.

[20] Scott, *loc. cit.*

ity for implementing a metropolitan government in roughly these terms. A metropolitan government should be powerful enough to do what we want, limited enough not to do what we do not want.[21]

Administrative Organization

The administrative organization of an operating agency is the structure through which the personnel, equipment, and activities of that agency are co-ordinated for the performance of its agency functions. Because of the importance of the administrative organization to the provision of agency functions, the administrative branch of the metropolitan multipurpose district should be placed in the hands of a trained, professional executive. The executive should be appointed by and be responsible to the legislative body of the metropolitan district. This finding is based upon the established trend of the use of this type of arrangement in California cities, known as the council-manager form of government.

> The trend towards council-manager government is easily the most significant recent development in California city government. It is being fostered by the intensification and multiplication of problems confronting councilmen in rapidly growing cities. These local legislators * * * feel compelled to delegate administrative planning and duties to a professional administrator hired by and directly accountable to them. It is then the manager's responsibility to unify the personnel and departmental programs and policies in order that the various parts of the city government may work harmoniously toward accomplishing the program determined by the council.[22]

Presently about half of all the cities in California are using the council-manager form.[23] In several of the 58 California counties a similar arrangement exists. In these counties a county manager or executive is the chief administrative office and is responsible to the board of supervisors for the efficient administration of the affairs of the county under his jurisdiction.

6. *The metropolitan multipurpose district must have adequate financing to perform its function.* The metropolitan problem, as recognized, exists because of a "* * * lack of areawide governmental jurisdictions that can effectively provide and *finance* services * * *."[24] Given an areawide governmental jurisdiction that can provide areawide services, how are the services to be financed? The following answer is furnished:

> The first principle in providing for the financial powers of a district is obvious: Give the district sufficient fiscal authority to support the function or functions it is established to fulfill. But

[21] Victor Jones, "Metropolitan Government" (an address delivered at a meeting of the American Institute of Planners, Northern California Chapter, Modesto, California, October 5, 1957).

[22] John C. Bollens and Stanley Scott, *Local Government in California* (Berkeley: University of California Press, 1951), pages 28 and 29.

[23] *Municipal Year Book*, Vol. 24, 1957 (Chicago: The International City Managers' Association, 1957), pages 17 and 498.

[24] John C. Bollens, *The States and the Metropolitan Problem*. (Chicago: Council of State Governments, 1956), page 17.

the answer to questions as to where the district should be allowed to look for necessary funds is far from obvious

The usual California procedure in passing a special district enabling act is to provide for a property tax, usually up to a specified limit And it would appear that some access to the property tax is important, at least in the early stages of a new agency's existence, for purposes of floating bond issues. The Stanford Research Institute request on the proposed San Francisco Bay area rapid transit system had this to say.

Since the faith and credit of the transit district would be needed to make the transit bonds marketable on economical terms, a general property tax is indispensable. Such a tax need not necessarily provide all the funds needed to service the bonds so long as the taxing power is available as underlying security.[25]

Even if the district is expected to develop only functions which can be self-supporting, it may well need taxing power, or some kind of nest egg, to help it get started [26]

As for sources of financing other than the property tax.

The review of district revenue sources in the Stanford Research Institute Report just referred to probably gives as good a listing as any of the range of possibilities These include. (1) the property tax, (2) fares and other service charges, (3) bridge tolls, (4) a regional sales tax, (5) a regional gasoline tax. In practice, the vast majority of special districts rely on the property tax, or on service charges, or both.[27]

That amount of financing which is considered adequate, of course, is also dependent upon the type and kinds of services to be provided. "It is to be remembered * * * that the needs of governments for funds are not independent of the demands of citizens for public services." [28]

ANALYSIS OF THE PROPOSED LEGISLATION

The legislation proposed in this report, if adopted, would permit the creation through general state law of metropolitan multipurpose districts by California counties and cities. This permissive legislation would outline a form of areawide government that could be used by California metropolitan communities as a means of solving their particular metropolitan problems. Once this metropolitan multipurpose district is available for use under state law it could be activated to meet the needs, whether they be great or small, of each metropolitan area as long as the general requirements of the law are satisfied The general requirements for the creation, organization, functions, powers and financing of the metropolitan multipurpose district are explained and analyzed below as they appear in the proposed legislation.

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[25] Stanford Research Institute, Organizational and Financial Aspects of the Proposed San Francisco Bay Area Rapid Transit System" in the San Francisco Bay Area Rapid Transit Commission, *Report to the Legislature of the State of California* (December, 1957), pages 108 and 109

[26] Scott, *op cit* pages 17 and 18

[27] *Ibid*

[28] Carl H Chatters, et al, *Financing Metropolitan Government* (Princeton Tax Institute Inc, 1955), page 262

METROPOLITAN MULTIPURPOSE DISTRICT ACT

Article 1. Declaration of Policy

This section declares the policy of the State in regard to the interest of the people in the establishment of adequate governmental machinery to provide metropolitan services.

Article 2. Definitions

This section defines certain terms used in the act.

Article 3. Creation of District

This section stipulates that all of one or more counties may constitute the district. That is, the metropolitan district boundaries in any case would be coterminous with existing county boundaries. This arrangement has several features which recommend it: (1) It is generally acceptable to existing local governments and is expressly favored in some cases, (2) It is presently being used in the case of two metropolitan single function districts in the San Francisco Bay area, (3) It is an arrangement which lends itself most conveniently to the formulas for representation and apportionment of district revenue needs included in the proposed legislation, (4) It will not further complicate the already confused pattern of overlapping jurisdictional boundaries of special districts and local governments.

Action for the formation of the district may be made by resolution or petition to the board of supervisors of the respective county or counties proposed to be included in the district.

The resolutions shall be presented by the respective boards of supervisors or by half or more of the city councils of the cities in the counties included in the district. The petition shall be signed by 10 percent of the qualified voters residing in the area to be included and submitted to their respective boards of supervisors. Both resolution and petition shall state the exterior boundaries of the area to be included, state the function or functions to be performed, declare that public interest or necessity demands the creation and maintenance of such a district, and request that the boards of supervisors call an election without delay for determining whether the district shall be created. These are standard features of existing special district law in the State of California. They also provide for two of the principles for acceptability desired by government officials and reviewed above: (1) local self-determination; and (2) political responsibility.

The district shall be established by a general election in conformance to the *Election Code* in the area proposed for inclusion in the district. Those functions proposed to be performed by the metropolitan district shall also be voted upon at this election. These features incorporate the essential democratic element of popular control with the principle of local self-determination.

To prevent any confusion on the part of the voters as to what they must do to establish or refuse the district, the act specifies that the ballot measure be simply stated and call for a "yes" or "no" vote. For the same reason, the functions proposed to be performed by the district are to be listed separately and call for the same "yes" or "no" vote Any number of functions may be presented, but at least one must

be approved on a metropolitan district function or the district will not be established regardless of whether or not the creation of the district is approved All election measures will be decided by a simple majority of the votes cast.

Additional functions may be added to the district's responsibility at any time subsequent to establishment by the same procedure as specified for the creation of the district and the initial assignment of functions. This feature obviates the necessity for creating separate special districts for each individual function It is a simpler and more efficient method than the "parallel pattern of organization and appointment" utilized and supported by the San Francisco Bay area local governments There is no wait for the "eventual feasibility" of combining areawide functions under one overall agency. Under the provisions of this act, the acceptable overall agency would already have been established and it would only become a matter of proposing that the areawide function be assigned the district, placing it on the ballot, and then obtaining the consent of the residents of the area.

This article also provides that whenever an existent special district within an established metropolitan district is performing one of the functions authorized to the metropolitan district, the special district shall continue in existence until the metropolitan district council acts to dissolve it. This feature is necessary for the integration of a function to be performed areawide and is founded on the sound basis that the metropolitan district government should have complete authority for the performance of functions assigned to its responsibility. Actually, the only reason for the existence of a special district is the provision of its special function. If this function is being provided on an areawide basis by the metropolitan multipurpose district, then there is no reason for the existence of that special district.

Article 4. City Selection Committee

This article creates a city selection committee from the mayors of the cities of each county to be included in the district which in turn selects the appropriate number of mayors or councilmen to represent the cities of the county on the governing body of the district. The discussion of city selection committees will be expanded in the next section concerning the district governing body. It should be noted, however, that this city selection committee device is being used in the Bay Area Air Pollution Control District, the State Planning District Act, and in the Bay Area Rapid Transit District It has been found to be an acceptable method for selecting the city representatives to sit on areawide policymaking boards.

Article 5. Governing Body

It is proposed that the governing body of the district be composed of the elected officials of the local governments existing within the metropolitan district boundaries. This feature conforms to the principle of representation known as "constituent-unit representation" and is one of the most important features of this proposed metropolitan multipurpose district form Using this principle the legislative body of the district is appointed by and from the legislative bodies of the

basic local governmental units served by the district—the cities and counties.

The philosophy on which such a system of selection is based can be summarized as follows:

1. The metropolitan district, whatever its functions, will be concerned with matters which also concern the cities and counties in the district area. Thus, some kind of direct and built-in linkage will be advantageous to help insure a co-ordinated approach to common problems.
2. If the district is to be an agency of self-government, it must be locally rooted, i.e., its board must be either directly elected or selected from constituent groups.
3. The major function of the district's governing body is not administrative but political—the making of policy. For this reason, it has been suggested that the board be made up of responsible officials, preferably elected, city councilmen and county supervisors.[29]

Recent practice and experience lends a good deal of support to this philosophy.

The principle of constituent-unit representation is already employed in a number of California and Bay area districts—the Metropolitan Water District of Southern California, the County Sanitation Districts of Los Angeles County, the Bay Area Air Pollution Control District, and the San Francisco Bay Area Rapid Transit District, for example.[30]

The formula by which the local units of government are entitled to representation on the district governing body, or metropolitan council, varies depending upon the number of counties included in the district. This variance is based on a sliding scale to keep the size and composition of the district governing body manageable, consistent, and approximately balanced regardless of how great the number of counties included in a district. As provided in this act:

If the area to be included in the district consists of	*Then the council shall consist of*
One county	5 members 2 county supervisors 2 city councilmen 1 city councilman or county supervisor
Two counties	6 members 1 county supervisor } from each county 1 city councilman } from each county 1 city councilman or county supervisor } from each county
Three counties	6 members 1 county supervisor } from each county 1 city councilman } from each county
Three or more counties	2 members from each county 1 county supervisor 1 city councilman

[29] Scott, *op. cit.* Appendix VII, page 78.
[30] *Ibid.* page 79.

The county supervisors serving on the metropolitan council are selected by and from their respective county board of supervisors The city councilmen are selected from among the city councilmen of all the cities in the respective counties by the "city selection committee", made up of the mayors of all the cities in the respective counties. In the case of a district consisting of only one or two counties, a third member is selected from either the county board of supervisors or the city councilmen by the joint selection of the board of supervisors and city selection committee of the respective counties.

The Bay Area Air Pollution Control District is an operating example of a district using the constituent-unit method of representation. This metropolitan district includes the nine Bay Area counties but is presently activated in only six of them. For this reason the governing board of the district now consists of 12 members, two representatives from each county currently activated as part of the district. One member of each pair is a county supervisor and the other is a city councilman.

> The district's governing board thus constitutes, in effect, a "federation" of the participating cities and counties, six of the board members representing the counties, and six representing the cities. If the district should be activated in one or more of the three counties not now participating the district board would be expanded accordingly to a possible maximum of 18 members.[31]

Not only does this arrangement permit a "federation" of existing local governments, it also allows for a strong degree of popular control. Since the members of the district governing body are elected officials of their local units of government, any member of the council may be recalled from his office of member of the board of supervisors or of a member of the city council, in which event his office as member of the metropolitan council becomes vacant.

Article 6. Metropolitan Functions and Powers

The proposed metropolitan multipurpose district may perform, at the choice of the electorate, one or more of the areawide functions listed in the act, or additional areawide functions as the need occurs The following normally accepted metropolitan functions are listed·

(1) Metropolitan Planning and Zoning;
(2) Metropolitan Air Pollution Control;
(3) Metropolitan Water Supply;
(4) Metropolitan Sewage Disposal;
(5) Metropolitan Public Transportation;
(6) Metropolitan Parks and Parkways;
(7) Metropolitan Law Enforcement;
(8) Metropolitan Fire Protection;
(9) Metropolitan Civil Defense.

The functions possible for areawide performance by the metropolitan multipurpose district are not limited to those mentioned. Further discussion of these and other likely metropolitan functions is contained in a statement prepared for this subcommittee by the Bureau of Public

[31] *Ibid*, page 82

Administration, University of California, Berkeley.[32] The kind and number of functions actually assigned a metropolitan district, however, will vary from area to area since no metropolitan community is exactly like another, in spite of basic similarities.

Nevertheless, it is specifically provided in this act that the metropolitan multipurpose district is to be limited to the performance of those functions specifically delegated to it. This feature permits the greatest possible degree of autonomy in the existing local governments. All functions presently performed or allowed to be performed at the city and county government levels would remain as prerogatives of those local governments. The metropolitan multipurpose district would assume functions on an areawide basis only as such functions are assigned by general consent of the area residents on the basis of the procedure outlined above.

The proposed legislation treats each function separately and extends those powers necessary for its full and effective performance. The powers provided the district for each function are identical to powers presently held by other units of local government in this State authorized by state law to assume the function. For example, those powers relative to planning and zoning are based upon the District Planning Law, Sections 66241, 66242, 66280, and 66290 in the Government Code, while those powers relative to water supply are based upon Section 3 and Section 5 (10) of the Metropolitan Water District Act. Those packages of powers and duties associated with particular functions and scattered throughout several separate acts are pulled together in one act to establish the multipurpose district.[33]

Article 7. General Powers and Duties

Such general governmental powers are granted the metropolitan multipurpose district as are necessary for its operation as a unit of government. These powers are those common to most governmental units and include: the right of succession, the power to make contracts, to sue and be sued, to acquire and dispose of property, and to hire employees. In conjunction with the hiring of employees, the district is authorized to adopt a merit system and provisions are included which will safeguard the rights and privileges of present public employees in the event the functions they are performing are assigned to the district for inclusion in an areawide program. Such items as carryover of retirement benefits, vacation time, and seniority, are included.

Article 8. Metropolitan Manager

It is proposed that the district governing body delegate the responsibility of the administration of district activities to a district executive officer, or metropolitan manager. The metropolitan manager shall be the chief administrative officer of the district and technical adviser to the metropolitan council. He shall be appointed by the metropolitan council and serve at the pleasure of the council. He shall be responsible to the council for the establishment of the administrative organization, the performance of the functions assigned the district, and any other duties

[32] *Ibid.*, see Appendix VI, pages 85 to 88

[33] See "Analysis of the Proposed Metropolitan Multipurpose District Act—No 5083" by Office of Legislative Counsel, contained in Appendix VII of this report

as may be assigned him by the council This necessary feature is based on the substantiated administrative principle that the co-ordination of governmental activities is best handled by a trained, professional executive. It also has basis in the historical and present trend of the establishment of such an arrangement in California city and county government.

Article 9. Financial Provisions

The act authorizes the district to incur indebtedness, to levy an ad valorem tax, issue general obligation bonds and revenue bonds. The district is also authorized to establish special assessment and improvement districts within the multipurpose district. The metropolitan multipurpose district must be equipped with the power to raise funds in order that it may plan adequately and effectively the administration of its assigned functions and operate and exist as a unit of government. Funds are necessary not only for day to day operations and maintenance of the district, but also for the periodic expenditures involved in the purchase, construction, and improvement of equipment and facilities required in support of daily governmental functions.

A source of operating funds is provided by authorizing the district to levy an ad valorem tax. This tax will be administered in the following manner: The metropolitan council will apportion its annual budget among the member counties of the district, one-half on the basis of the relative population of each county to the district and one-half on the basis of the relative assessed valuation of each county to the district. This method of apportionment is presently being used in the Bay Area Air Pollution Control District.

As far as possible, however, the functions of the district should be self-supporting To accomplish this, the district is authorized to establish and collect rates, tolls, and charges for those services or commodities which lend themselves reasonably to this method. This authorization will also require that each district resident support the district services approximately to the extent that each resident benefits. The district is also authorized to establish special assessment and improvement districts within particularly defined areas of the district for those services or functions directly benefiting those particular parts of the district Such items as sewage systems might come under this category

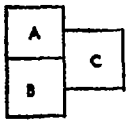
The metropolitan multipurpose district is authorized to issue revenue bonds and to submit for voter approval the issuance of general obligation bonds. This feature of the proposal is included to allow for an adequate method of financing capital expenditures of the district. Both types of bonds are necessary since each serves a particular purpose. The revenue bond is best utilized for the financing of some facility or service that produces revenue which, in turn, is used to retire the bonded indebtedness. General obligation bonds are usually used for those projects not expected to produce revenue though essential to the operation of the government and may be repaid from any revenue source not already dedicated, such as appropriations from a general fund.

The power to raise revenue as contained in these financial provisions of the proposed legislation for the creation of metropolitan multipurpose districts is limited in the same general manner as are the other municipal corporations and districts under California state law.

Article 10. Modification and Dissolution of District

Any county contiguous to a metropolitan multipurpose district may join that district for the purpose of the performance of any or all functions of the district upon appointment and certification of its proper number of members to the metropolitan council as provided for in this act, and upon affirmative resolution of the metropolitan council of the annexing district This feature, which permits a great degree of flexibility in the solution of areawide problems through the metropolitan multipurpose district device, would operate as follows:

Let us say there are three neighboring counties, A, B and C.



Suppose *County A* has established a metropolitan multipurpose district for the performance of three functions—metropolitan water supply, metropolitan transportation, and metropolitan parks

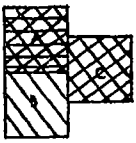
Metropolitan water supply

Metropolitan transportation

Metropolitan parks

County B wishes to provide for metropolitan transportation, but not for water supply or parks. It would be possible for this county to join County A in the district operation of metropolitan transportation.

County C wishes to provide for metropolitan water supply and transportation, but not for parks. It would be possible for this county to join Counties A and B in the metropolitan district operation of transportation and to join County A in the district operation of metropolitan water supply.



The result is one metropolitan multipurpose district handling three areawide functions, each function being provided over a different area If at some later date all three counties wish to provide for air pollution control, then nothing more need be done but the proper assignment of the function to the already formed metropolitan multipurpose district.

It is further provided here that the metropolitan council shall at all times be properly constituted for the transaction of business on the basis of the formulas stipulated earlier. Also, members of a metropolitan council in a multi-purpose district shall enter the deliberations of that council only regarding that function or those functions properly established within his component county. In the case of the preceding example, the ABC Metropolitan Multipurpose District would provide the function of metropolitan transportation over a three county area and the metropolitan council would be composed of 2 representatives from each county The same district would provide the function of metropolitan water supply over a two county area and the metropolitan council would be composed of 3 representatives each from County A and County C The metropolitan parks function would be provided by this district in a one county area and the metropolitan

council would be composed of 5 representatives of local government from that one county. All totalled, there would be 10 representatives to the metropolitan council of the ABC Metropolitan Multipurpose District, but in no case would there be more than six members sitting in policy deliberation on any metropolitan function. Council representatives would not be acting on matters of metropolitan functions with which their component county had no official metropolitan district connection.

Action for the dissolution of a metropolitan multipurpose district may be initiated upon resolution of the boards of supervisors of the counties containing more than 50 percent of the population of the entire district. Upon receipt of the petition, the metropolitan council shall call an election to determine the question of dissolution. The election shall be decided by a majority vote.

APPENDIX

APPENDIX I

EXCERPTS FROM REPORT OF THE GENERAL COUNSEL AND MANAGER TO THE COUNTY SUPERVISORS ASSOCIATION OF CALIFORNIA AT THE 48TH ANNUAL MEETING, FRESNO, CALIFORNIA SEPTEMBER 24, 1958

One year ago, this association bravely adopted a set of eight county home rule principles This made us happy. We felt that a course for our future had been set.

Others felt likewise. Your principles have attracted wide notice. They have just been adopted as worthy goals for all American counties.

Is now the time to close our "plan books"? Or do we have more thinking to do together. Where are we going?

California's growth is tremendous—and we look forward to the inevitable doubling of today's amazing population.

Some governmental problems are here—and others will soon arrive —problems which defy solution by the methods we were wont to use in the normal days before World War II. Yet we, too, often think in terms of the answers we so smugly used in the 1930's. They are not good enough for the 1960's and 1970's!

Let us examine some things you can do and maybe must do—soon.

The potentialities of California county government, organized under modern home rule principles, are not only tremendous, they approach the unbelievable.

Here is some indication of the scope of that which can be achieved by counties in our time!

1. Our county governments are, and more and more will be, *effective and respected partners of the State and Federal Governments in vast joint programs.* In the State of California, there is now expended almost $500,000,000 each year for social welfare purposes. Every cent of this is spent through some county welfare department—and in this election year, both major political parties have affirmed their belief in keeping this function in county government. Other equally striking examples are legion throughout the whole array of governmental services. Home rule principles offer the only possibility of retaining a local voice in the affairs of these huge and permanent national governmental programs. Modern effective county home rule government can do the job!

2. Experience has already demonstrated that our home rule counties *merit and receive the confidence of the cities within their boundaries.* This is no empty statement—it is the foundation for all our numerous programs of functional consolidation (contract services). These can range from a simple arrangement whereby the county maintains the streets for a city of 500 population to the noted "Lakewood Plan" where the residents of over a dozen cities contract for county operation of the entire municipal government. The 2,000 instances of such city-county contracts in California are by no means the ceiling There will be more, and based on this experience, there will be the benefits of

the economy and efficiency of this device wherever county services are of a standard high enough to merit municipal confidence. Modern home rule principles equip county government with the ability to perform any basic service for all government jurisdictions within its boundaries.

Basic county departments should be better staffed and better equipped than any corresponding local government agency. This is especially needed in fields of urban impact, such as planning, zoning, assessing, road and traffic engineering. The leadership which comes from excellence is unusually lasting—and it is the most noncontroversial!

3. From functional consolidation, it is but a step to the counties' role in the metropolitan governments of the 1960's Everybody concerned, including the counties themselves, has overlooked county government's probable destiny in the metropolitan government of the years ahead. The counties' tremendous future here is gradually becoming apparent. Our counties are equipped to make a real contribution in the metropolitan government field.

One needs only to run down the list of the recognized functions of "metropolitan government" to see clearly how well prepared California counties really are.

This list of services is typical:

(1) Highways (and rapid transit);
(2) Health services;
(3) Hospital operation;
(4) Welfare programs;
(5) Law enforcement;
(6) Planning;
(7) Zoning;
(8) Parks and recreation;
(9) Air pollution control;
(10) Sanitation and sewerage;
(11) Water supply.

In almost everyone of these fields, California counties have extensive and successful experience.

When one adds to this priceless experience, the county's natural geographical advantage in constituting a ready-made beginning metropolitan area, the possibilities of the future become clear.

To make the contribution to metropolitan government for which their position on the California map has so admirably fitted them, counties must first attain true home rule status. At the same time, we should consider these three items:

(a) Cease to shun new functions. This does not mean to cast counties in the role of eager power-grabbers, but it most certainly is a condemnation of the old attitude of counties of frowning on the assumption of new governmental functions. Our record here is increasingly good. Both the State Legislature and California's hundreds of cities look regularly now to county government to tackle difficult problems and perform new services successfully. No urban or metropolitan problem should ever go unsolved because of county reluctance to attempt its solution!

(b) Along with the need to face the future, and to perform the services the people need and want, must come an avoidance of independent special service districts. No matter how good it may be, the *single* purpose district is still a single purpose district and is, by its nature, forever doomed to failure in solving general metropolitan problems. However good it may be, the *multi*purpose district still falls woefully short of the combined abilities of modern home rule counties working as partners with modern home rule cities.

Our own special district situation is bad. The multiplicity of independent districts is the biggest factor in county government's difficulties in solving urban and metropolitan problems. This is true in counties from the size of El Dorado on up. In the large counties, this problem is stupendous—and will eventually require state legislative attention and action.

Hundreds of these districts were fostered by county government. We cannot disown our own offspring—but these particular offspring were emancipated at birth!

The time is here to stop fostering them. Special services should be provided by districts under the board of supervisors, by county service areas, or directly by the county from sales tax revenues.

Whether the counties' metropolitan government role is to be that of direct performance of services or that of partner in a federation with its cities, or both, only a county ready to assume new responsibilities can be effective.

(c) Both counties and cities must *avoid the abuse of home rule* into which a few have fallen. Nothing will be more successful in killing home rule forever than the abuse of its powers on the part of any local government acting with total disregard for its neighbors. The whole home rule structure will fall if even a few of the possessors of this precious power use it to make of themselves pigeon-proud principalities or feuding city-states as in days of old.

For instance, the power to zone must never be used so as to make impossible the performance of an essential governmental service for the area. A small city's absolute veto power over the establishment of a carefully controlled trash dump for a large metropolitan area can be the type of action which will plunge us back into the dreaded days of absolute control from the State Capitol. Both counties and cities must use their home rule powers as carefully as an enlightened nation must exercise its sovereignty in these advanced days.

4. The greatest potentiality of modern county home rule is also its simplest—the county government in every courthouse will be exactly that government which the people of that county desire. In an era of necessarily increasing centralization of government and of all American ways of life there will have been preserved a maximum of the precious principles of local self-determination. This will have been accomplished without any sacrifice, indeed with an actual increase, in the ability of county government to act as an agency of the State.

County home rule is not only the route to modern county government, it is the road to survival of American county government. You here today lead the way for all America! While we are gradually attaining fulfillment of our eight home rule principles, let us at the same

time be growing consciously into the glorious future place of counties in the governmental scheme of things. We know what to do; we know that from today on is the time to do it; we are fast acquiring the necessary tools and techniques. We can show the world that the old "dark continent of American politics" is becoming the new "Shangri-La of local democracy."

Respectfully submitted,

WM. R. MACDOUGALL
General Counsel and Manager

APPENDIX II

PRESENTATION TO SUBCOMMITTEE ON PLANNING OF THE ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

At the Hearing Held in San Francisco, California

By Claude B. Hutchinson
Mayor of the City of Berkeley, California

December 16, 1958

City of Berkeley, California

To the Subcommittee on Planning of the Assembly Interim Committee on Conservation, Planning and Public Works

Gentlemen: We appreciate the opportunity of meeting with you today to discuss the subject of metropolitan multipurpose districts and of expressing some views and opinions which we have on this subject. This whole concept of metropolitan districts and metropolitan government is receiving presently a great deal of attention in this State and throughout the Country. We are reading and hearing more and more of proposed areawide governmental units in various metropolitan areas and labels are being attached to them, such as the "Toronto Plan", "The Dade County Plan", and others.

The City of Berkeley is located in the center of a growing metropolitan area For this reason its city council is much interested in this subject and in the various proposals and plans that are developing in the San Francisco Bay area and elsewhere in this State and Nation. At the request of the city council, our city manager recently prepared a report on the subject of metropolitan goverment in which he has brought together a considerable amount of information with reference to such developments in this State and elsewhere, as well as with reference to attitudes, opinions and proposals that are emerging in this general field. The council has adopted and approved certain general criteria and principles, as recommended in this report, for its own use in evaluating legislation which may be presented. Indeed we believe that the principles involved in these criteria might well form the bases for the drafting of legislation designed to provide for metropolitan multipurpose districts. It is my purpose this afternoon to present these principles and criteria to you and also to discuss with you the "emerging pattern" of metropolitan government which seems to be developing in this San Francisco Bay area.

Before doing this I would like to mention a few concepts which I believe can only result in providing pitfalls or erecting barriers to the orderly development of metropolitan government. One such pitfall is the fallacious concept that centralized bigness is necessarily economical and efficient and is necessarily good. This concept seems to stem

from the fact that for some individual services or functions, consolidation does result in better and more efficient operation. From this fact the erroneous conclusion is sometimes drawn that centralization of all functions, with the elimination of established local governments and the substitution therefor of one super-government in a metropolitan area, will result in efficiency, economy, and better government. On the contrary, the few studies which have been made in this field indicate that to the extent that there is a relationship between size and cost of government, the smaller—not the larger—governmental units operate more economically.

A second barrier to the orderly development of metropolitan government in this State might well result from the creation of a series of completely independent special districts, each of which becomes a kingdom of its own. A group of such districts, each operating one or more area functions or services, could effectively prevent the formation of a truly metropolitan government with a central policy-making body.

The pattern for metropolitan districts which seems to be emerging in the San Francisco Bay area is developing along the following lines: First, there appears to be fairly clear recognition of the need for the provision of certain functions on an areawide basis. These functions have been considered separately, however, and have commanded widespread citizen support only as the need of each has become apparent. In general, public interest and support have been confined to those functions for which the need is apparent, immediate, and pressing. There has been, as far as we can see, no popular movement or apparent public support for an attempt to form a metropolitan governmental unit with a central policy-making body authorized to provide services and functions which are recognized to be areawide in character but for which there is no immediate or pressing public demand. Hence, it is our conviction that for the next several years we will be largely concerned with proposals and legislation for limited purpose districts or governmental units, each of which will be suggested as a solution to a single areawide immediate problem.

The second characteristic of the pattern which seems to be emerging is that the geographical, social and economic area considered to be the metropolitan Bay area is composed of the nine Counties of Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Solano, Sonoma and Napa. These are the counties which have been included in the most recent legislation and proposals for Bay area districts, such as the Air Pollution Control District, the San Francisco Bay Area Rapid Transit District and the proposal for a Regional Planning Commission.

The third characteristic of the emerging pattern is that these districts are being created directly by legislation for specified purposes and for operating in the metropolitan Bay area, rather than through the use of enabling acts. In addition, provision has been made in this legislation for appointment by local governmental units, of the members of the governing body of each such district. This provides for local responsibility. It also provides the method by which, through the very simple procedure of appointing the same persons as members of the boards of directors of a series of districts, barriers to a creation of a truly metropolitan governmental unit are largely eliminated.

With these considerations in mind and in view of our belief that during the course of the next several sessions of the Legislature proposals will be made to create additional districts to meet immediate area problems, we are presenting to you today the principles and criteria to which I have previously referred and which have been adopted and approved by the Council of the City of Berkeley by Resolution No. 37,102-N. S. In so doing, I would like to urge your earnest consideration of the use of these principles and criteria as "measuring sticks" in judging legislation which may be proposed for the creation of additional areawide governmental units. These principles and criteria are as follows:

1. The right of local self-determination must remain with the citizens acting through their closest unit of local government—the city.

2. The best interests of the people of this State and Nation require the maintenance of strong, healthy cities which have the right of home rule and which provide local governmental services and perform local governmental and policymaking functions.

3. The complete political consolidation of existing local governmental units (cities and/or counties) to form an area or regional government for any California metropolitan area is unsound and must be rejected.

4. There is no single or overall solution for problems in a metropolitan area. Each problem and each function or service proposed or considered for action on an area basis or inclusion in an areawide governmental unit must be carefully examined and a determination made only after complete studies which include consideration of the principles herein enumerated.

After such analysis and complete study, and subject to such principles, certain broad categories of services and functions which lend themselves to areawide performance and to inclusion in metropolitan government may include:

a. Utility-type services—such as water, electricity, transportation, etc. These services normally lend themselves to areawide operation, are nongovernmental in character, and may be provided by private corporations or governmental agencies.

b. Service functions requiring large capital outlay—such as sewage collection, treatment and disposal; drainage; flood control, etc. These are services which do not normally involve policy, enforcement, or political and governmental activity. The area to be served by any one installation should be determined by sound engineering and economics in each case.

c. Other service functions—such as garbage and waste collection and disposal; technical and professional services, etc. Here again is the service-type function which does not involve policy, enforcement, or political activity. These services can be provided by contract with private individuals, other governmental agencies, or by an areawide operation as may be most economical and best meet the needs of the agencies involved.

d. Functions requiring areawide treatment—some functions by their very nature and scope are too broad to be performed upon the basis of city or county boundaries. Examples of such functions are: air pollution control, area or regional park and recreation areas, and regional planning.

5. When single service or related services districts are created the legislation must include provisions:

a. To insure that the district is not organized in a manner which will permit it to resist and defeat a combination with other districts so as to make improbable a combination of districts into a unit of metropolitan government at a future date, if such action becomes necessary and desirable.

b. To provide for local control and direct local responsibility through a governing body responsible to the cities and counties within the district.

(Examples of methods of formation of the governing bodies of districts to meet these criteria are: the Metropolitan Water District in the Los Angeles area, and the San Francisco Bay Area Air Pollution Control District in this area.)

6. The area proposed to be included in a district or unit of metropolitan government must be in fact the area best suited for the purpose proposed or in which to render the service or services proposed, as determined by all factors relevant to the particular case including geography, economics, engineering, social and cultural factors, and the requirements of the particular service or services to be rendered.

For your further information I am attaching a copy of the report made by our city manager to the Berkeley Council, and designated as City Manager Report No. 512 on the subject of metropolitan government.

Before concluding, I would like to direct your attention to the most recent proposal for a Bay area governmental unit and attempt to apply the above criteria to that suggestion. Within the last week the newspapers have reported a proposal for a Bay area authority. It is indicated that the functions of this authority would be to operate: (1) the five Bay bridges, namely, the Golden Gate Bridge, the San Francisco-Oakland Bay Bridge, the Richmond-San Rafael Bridge, the Dumbarton Bridge, and the San Mateo-Hayward Bridge; (2) the Ports of San Francisco, Oakland, and Richmond; and (3) the San Francisco International Airport and the Oakland Airport.

The type of organization to be created is not yet clear. However, we understand that the suggestion in the engineering report is that the governing body of the authority would be a five-man board appointed by the Governor of the State.

Now let's apply our criteria to this proposal, as it has appeared in the public press. It would appear, in general, that the proposed Bay Area Authority, to operate the bridges across the Bay, the seaports within the Bay and the two major airports, would be concerned with areawide services and functions. This in no way goes counter to the first three of our principles. It does not conflict with the right of self-

determination, the maintenance of strong, local governmental units with the right of home rule, nor does it propose a complete political consolidation of existing local governmental units

Turning to criterion No 4, which sets forth certain broad categories of services and functions all of which lend themselves to areawide performance, it would seem that this Bay Area Authority proposal falls within our subdivisions, a, b, and c It involves utility-type services, insofar as the ports and bridges are concerned, and the functions involved require large capital outlays Such service-type functions do not involve governmental activity in the normal sense.

The proposal for a governing body of five persons appointed by the Governor of the State is, however, directly contrary to our fifth criterion This criterion advocates legislation to insure that the district is not organized in a manner that will permit it to resist and defeat a combination with other districts and suggests that provisions be included in the legislation for local control and direct local responsibility. This was the point which I stressed at the beginning of this statement. We strongly believe that no district should be created in a manner that will permit it to be a barrier to the orderly development of metropolitan government In this proposal the authority would be a completely independent special district, and a kingdom of its own. A five-man board appointed by the Governor would have no local responsibility, would not be susceptible to combination with other areawide functions at a later date, and would be directly contrary to the emerging pattern for the Bay area district which I have previously described To avoid such a situation and in order that a barrier may not be erected to the orderly development of metropolitan government in the San Francisco Bay area, we would respectfully suggest that, if this proposal comes before your committee or the Legislature, you give full consideration to the application of this principle, so that we do not, through the formation of a district with a governing body appointed by the Governor of the State, defeat or retard the advancement of orderly metropolitan government in the Bay area

Gentlemen, I very much appreciate the opportunity you have given me to make this presentation It is our hope that you will give serious consideration to the use of the principles of criteria which we have presented to you today, and that the views which we have expressed may be helpful to you in your further considerations of this important matter

Respectfully submitted,

CLAUDE B. HUTCHISON
Mayor, City of Berkeley, California

December 16, 1958

APPENDIX III

THE EMERGING PATTERN OF METROPOLITAN GOVERNMENT IN THE SAN FRANCISCO BAY AREA

Assembly Interim Committee on
Conservation, Planning and Public Works
San Francisco, California, December 16, 1958
(Wes McClure, City Manager, San Leandro)

As members of the Assembly Interim Committee on Conservation, Planning and Public Works, I am sure that you know the importance of carefully thinking through the proper organization of any new governmental operation And, I am sure that you must feel that to be effective, the organization of public business should be geared to democratic control, and its structure and functions clearly understood, by the people it serves.

Unfortunately, there appears to be a widespread lack of understanding as to what is emerging as a metropolitan government structure here in the San Francisco Bay area. This is of considerable concern to me, and I hope to you, for without well defined long-range objectives and methods of accomplishment, resulting from critical public debate and understanding, we cannot achieve needed public support and we all could become victims of organizational confusion and organizational inadequacy.

Before discussing the "emerging pattern" in this area, I would like to mention certain judgments and principles that have guided this development to date:

1 *The geographical area* that is recognized as the basic socio-economic unit confronted with our metropolitan problems consists of the nine Bay area Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma

2 *The problems* are those needed programs of public concern that no longer can be adequately taken care of by existing governmental agencies—namely the cities, the counties and the State. In this context, this means only limited functions for a metropolitan government, that consolidation of existing local government is not the answer and that there is no inherent advantage in bigness.

3. *The structure* of the metropolitan government is of paramount importance. The easy, superficial out, of trying to pattern ourselves after structures found in other metropolitan areas of our Country could be hazardous indeed, since organization structures should reflect the specific problems, the need for action and the political democracy environment of the area. Our emerging metropolitan structure here was based upon making it

   a Politically responsible;
   b. Locally rooted; and
   c. Permissive of a co-ordinated approach to areawide problems as they emerge.

Basically what this means is an "evolutionary federation" approach rather than a "supergovernment" approach; a recognition of the im-

portant continuing role of existing local government rather than governmental consolidation; a recognition that in organizing to take care of one metropolitan problem you should not at the same time propagate an inherent organizational blindness toward other problems of the metropolitan area.

This approach has guided the establishment of two organizations to resolve (1) the Bay area air pollution problem (in 1955) and (2) the Bay area rapid transit problem (in 1957). The pattern established with these two agencies, with current consideration of a third one for Bay area planning, is what I refer to as the emerging pattern of metropolitan government in the San Francisco Bay area.

The San Francisco Bay Area Air Pollution Control District

When air pollution emerged as a problem for the metropolitan Bay area, it natively stimulated the orthodox thought that "this is a specific problem; how best can we resolve *it*." There was no citizen uprising or support for general metropolitan government, there was only support and strong support to do something about air pollution. On the other hand, so that we would not end up with a confusion of separate and independent agencies, with each a possible feudal kingdom of its own, a very special kind of single-purpose district was set up reflecting the guiding principles I have just mentioned.

The district was set up comprising the nine Bay area counties.[1] The district has authority over the broad field of air pollution control—a problem local governments agreed could not be adequately controlled by them. With two representatives from each county area, the legislation provided that the "appointing authority" for these representatives would be the elective officials of the county and of the cities within each such county.

As specified in the law, each county board of supervisors appoints one of their own board members to serve on the district board, and likewise the mayors of all of the cities within that county serve as a selection committee to appoint a mayor or councilman to represent that group of cities on the district board.

In this manner, there was provided a district that was politically responsible and locally rooted. It remained now to be seen if the same pattern of appointment could be provided for in the establishment of new districts in order to permit a co-ordinated approach to meet other emerging metropolitan problems.

The San Francisco Bay Area Rapid Transit District

With the widespread recognition that the San Francisco Bay area needed a rapid transit system to promote its proper growth and development and to avoid vehicular strangulation, new state legislation was proposed and passed setting up a second district as a part of our metropolitan structure.

Here again legislation defined the metropolitan area as including the nine Bay area counties although again, as in air pollution, not all were automatically activated by the State Legislature.[2]

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[1] Napa, Solano and Sonoma Counties were not automatically activated in the district, but provision was made for their future activation.

[2] Napa, Santa Clara, Solano, and Sonoma Counties were not automatically activated in the district, but provision was made for their future activation by an annexation procedure.

Here again, as in air pollution, the "appointing authority" for representatives on the district board were the boards of supervisors and the mayors of the various cities.

The similarity of appointing authority and appointing procedure was no happenstance. It was a deliberate effort to implement the philosophy used in setting up the Air Pollution Control District.

One of the most active groups to sponsor the parallel pattern of organization and appointment was the Alameda County Mayors' Conference composed of the mayors of all the cities in Alameda County. The following is a resolution that was passed unanimously by this group; a resolution which, I hope you will agree, indicated a high level of political leadership:

RESOLUTION PROPOSING THE METHOD OF SELECTION OF THE GOVERNING BOARD OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

WHEREAS, Legislation will be proposed at the next session of the State Legislature setting up a San Francisco Bay Area Transit District organization; and

WHEREAS, Any such regional organization should have a governing board that is politically responsible to local communities, in order to co-ordinate local and regional policy and programs, as well as to obtain local community support; and

WHEREAS, A parallel pattern of organization should be established for each single-purpose program (*i.e., air pollution, rapid* transit, etc.) so that when future consolidation of regional programs and functions is feasible under one overall governing board, such consolidation can be made by the elective representatives of local government in the Bay area; and

WHEREAS, The San Francisco Bay Area Air Pollution Control District, which is already established, has a governing board appointed by elective county and city officials (one appointed by each board of supervisors of each county, and one appointed by the mayors of all the cities of each county) thus providing for local communities to have a voice on regional problems that affect them; now, therefore, be it

Resolved, That the Mayors' Conference of Alameda County go on record proposing that the same parallel pattern of appointment and representation be used in establishing the governing board of the Bay Area Rapid Transit District.

Similar resolutions were passed by other city councils and boards of supervisors in the Bay area and they too were helpful in the passage of this legislation.

Although this parallel pattern of organization was accomplished, one unexpected legal technicality came to light in implementing the state law. A ruling by the Attorney General's Office pointed out that since there was no specific provision in the law declaring the "compatibility" of holding office concurrently on the Rapid Transit District Board and holding office as a councilman or supervisor, it became necessary for several councilmen to resign their city council positions in order to serve on the district board. The League of California Cities is pro-

posing a clarifying amendment for the next legislative session and we hope this legal defect will soon be corrected.

A Proposed San Francisco Bay Area Regional Planning District

A bill was introduced in the 1957 Session of the Legislature to set up a Bay Area Regional Planning District. It, too, included the nine Bay area counties in the district. It, too, invested in the hands of boards of supervisors and mayors the appointing authority. It also proposed that members of boards of supervisors and city councils be the ones appointed to the district board. Although held back in committee in 1957, this probably will be proposed again in the coming legislative session.

A Port District?

Reference should also be made to current consideration of a proposed Bay area port authority. Current studies aimed at exploring more effective planning and co-ordination of Bay area water ports, airports and bridges is certainly commendable and is a reflection of the fine forward-looking leadership of the State Senators and our San Francisco Bay area As in the case of the Rapid Transit District, a district concerned with ports and bridges has the soundly conceived potential of facilitating a co-ordinated growth and development of these facilities for the mutual benefit of the entire metropolitan area.

I view with alarm, however, the thinking of those who seem to be proposing the superficial imposition of the Port of New York authority concept for the governing body of this proposed new district or authority; and, without regard for the organizational pattern that has already emerged to solve other bay area metropolitan problems. They look toward a type of appointive governing body that is independently set up outside the normal structures of traditional government, to the extent that it could become a kingdom all of its own with inadequate political responsibility and ultimately inadequate focus on the total of interrelated metropolitan problems that either are here now, or that will emerge in the future

I hope my alarm is unfounded and that when this legislation is introduced in Sacramento it will propose a governing board appointed by elective county and city officials as in the case of the Air Pollution and Rapid Transit Districts.

* * * * *

I suggest that we have political democracy and political leadership of a high order in our traditional governments in California.

I suggest that the pattern of metropolitan districts as established for air pollution and rapid transit: (1) is politically responsible; (2) is locally rooted; (3) permits a co-ordinated approach to metropolitan problems; and (4) permits future consolidation of metropolitan programs and functions into one governing board when feasible.

I suggest that the alternates to this approach are: (1) independent kingdoms; or (2) for the State Government to step in and take over the resolving of our own localized metropolitan problems and these alternates, I believe, very few here would like to see.

APPENDIX IV

STATEMENT OF RICHARD CARPENTER, EXECUTIVE DIRECTOR AND GENERAL COUNSEL, LEAGUE OF CALIFORNIA CITIES, TO THE SUBCOMMITTEE ON PLANNING OF THE ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS—DECEMBER 16, 1958

1. Members of the league staff have appeared before this committee at other hearings and advocated creation of a strong state planning agency. The league will continue to support state planning legislation and the appropriation of funds necessary to make it fully effective. We believe that a state planning agency is essential to assist local planning departments and commissions and to co-ordinate the physical planning and public works projects and improvements of federal, state and local governments and departments and agencies thereof.

2. We also have presented to this committee our general views on the subject of conservation of prime agricultural lands or so-called agricultural zoning. Briefly the league has indicated support of legislation authorizing the preservation of prime agricultural lands where it is found as a matter of state policy that such preservation is essential to the economy of the State; the land is as irrevocably dedicated to this use as is other land zoned to residential, commercial or industrial uses; the consent of the landowner is given no more weight than in other types of zoning; and agricultural zoning is not a thinly disguised barrier to annexation or normal municipal growth

3. This is the first time we have appeared before this committee for the purpose of discussing metropolitan government. We have participated in a symposium and several conferences, meetings and seminars on the subject and have attempted to keep abreast of some of the writings in the field. I have personally visited Dade County, reviewed the Florida Constitution, the Dade Metro Charter and discussed the merits of that experiment with many Florida local government officials. It is impossible, however, either to attend all the meetings or read all that is written on this subject. We have a committee currently drafting a statement of principles for the approval of the league board of directors. Our board will consider these on January 8 and 9, 1958, and thereafter I hope to be able to hand the statement to the chairman of this committee for the record as the official league position on metropolitan government in California. Meanwhile, the views expressed here are personal although similar to statements of city officials appearing here and similar to some of the principles our board will approve.

Some contend that all the problems of local government in our metropolitan areas are due to the existence of scores of cities, counties and districts and the lack of a single metropolitan government. It also is contended that the present high total rate of local property and excise

taxes is due to this same multiplicity of local governments. Those who make such statements cannot support them. Some who make such statements do so to conceal their own empire activities. In a recent paper presented at the NAHRO meeting in San Francisco Morton Grodzins of the University of Chicago stated:

> "The great local-government fad of the midcentury is metro-building. * * *"
>
> "However disguised or compromised it may be, the leading idea in most, if not all, of these reports on the problems of metropolitan government is this: that there should exist a single, general local government for each metropolitan area—or, as it has been put in almost slogan terms, one local government for one population group. * * *"
>
> "Fads and fashions in governmental ideas are no more reliable a guide for desirable action than, let us say, fads and fashions in ladies' clothes.
>
> "In the time that I have available to me, I will argue:
>
> "First, the great effort being put into the drive for metropolitan-wide governments is largely wasted effort. In most places in the foreseeable future—and certainly for the ten-year span we consider at this meeting—the achievement of plans for unified metropolitan government will be politically impossible.
>
> "Second, and perhaps more importantly, even if such plans for large scale metropolitan governments were achievable, they would not, in many respects, be desirable.
>
> "Third, the great problems facing the metropolitan areas of the Country—including housing and urban renewal problems—are not amenable to solution through any structural changes at the local level, including the structural change that might produce a metro government. To whistle up schemes of structural change is therefore to whistle the wrong tune. What is needed is policy decisions and political action, not structural alterations in governmental forms.
>
> "Fourth, there are alternative methods, far short of full scale metropolitan government, of achieving needed, local structural changes. These have the twin virtues of being politically feasible and administratively effective. They can do what is needed without the undesirable side effects of large scale metropolitan reorganization."

Rather than repeat the statements of other city representatives, I will simply indicate that I agree with the statement of the city officials of Berkeley, and San Leandro. I also refer to my own statements included in the Los Angeles Metro Government Symposium of April 8, 1958, and Western City for November, 1958. I am not suggesting that metropolitan government in some degree is either unnecessary or undesirable. On the contrary we have many examples of metropolitan needs having been met in California by governmental devices. This might be any form of local government that provides essential public services throughout a metropolitan area on an efficient, economical and democratic basis. The Bay Area Air Pollution Control District and Transit District are examples. I am suggesting, however, that before

we rush into any new supergovernment we take a very close look at the real problems, alternative solutions possible under existing governmental devices and the effect any supergovernment will have upon our present democratic institutions.

Cities were created by the people who live in them not just to provide services or to foster development of economic, educational, cultural and recreational centers but also to keep government responsive and close to the electorate. I doubt that a state Senator or Assemblyman ever has been recalled, nor have I heard of the recall of a supervisor but if there is any doubt as to the responsiveness of city government to the people you need only check the record or attend a few council meetings

Assuming the need for some governmental agency to provide a service throughout a metropolitan area which cities agree cannot be provided by the co-operative action of existing local governments what should be the structure of such metro government which will provide the service? The governing body should be composed of those who represent existing governments capable of providing the service within their own boundaries. A selection committee can name the mayors, councilmen or supervisors to serve on the governing body of the metro government agency. Each agency capable of providing the service within its own boundaries should have a proportionate vote on the selection committee and no county or city should be given any greater voting power than any other city or county having similar population and assessed valuation. The metro agency should be largely an administrative device to perform a specific function and the metro governing body will not exercise the usual police and taxing powers of the counties or cities. The powers and duties of such an agency will be limited to specific functions agreed upon by all agencies in the area.

Howard Gardner, our associate director, has suggested the possibility of existing local governments creating a "Metropolitan Council" to consider area problems, co-ordinate local government activities where possible, encourage contracts for exchange of services and recommend such alternatives as appear desirable when existing devices fall short of area needs. This idea has considerable merit. It avoids the headlong rush to bigness and its greater expense, its breakdown of communications, lack of flexibility, increased bureaucratic aloofness and stagnation.

Identify the problem before you determine the structure of government to solve it.

APPENDIX V

METROPOLITAN DISTRICTS

OFFICE OF THE CITY MANAGER
CITY OF VALLEJO, December 15, 1958

To: SUBCOMMITTEE ON PLANNING
ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS
Room 3126, State Capitol, Sacramento 14, California

GENTLEMEN: Thank you for your invitation to testify regarding metropolitan planning districts. Because others, I'm sure, will present professionally based opinions on other components of this large question, I'll restrict my statements to considerations of organization and representation.

Primarily, I advocate that whatever organizational structure and method for representation may be adopted at any time, shall coincide with those theretofore installed in our existing metropolitan-type jurisdictions.

There are persuasive evidences that some form of metropolitan approach must be used to solve rapid transit, air pollution, toll bridge, economic development, water supply and certain recreational problems It has been noted by many that a number of other areawide needs would be regarded as unsolved metropolitan-scope problems if they had not already been undertaken by agencies whose activities we take for granted.

In that connection, one thinks of, among others, areawide freeway and highway development, controlled by the Division of Highways, gas and electricity distribution by P. G. & E., water supply in multi-county areas by EBMUD and the San Francisco Water Department, and economic development efforts co-ordinated by the Bay Area Council.

Perhaps it is not too cynical to suggest that our progress in these matters offers the jeopardy of replacing a jungle of problems with a labyrinth of solutions If this is an admissible view, consequently we must admit that the cause is our tendency to isolate problems and to deal with them exclusively, rather than to recognize that the several public functions of a metropolitan complex are interdependent, acting on and reacting to each other, as do the moving parts of a machine. Indeed this is the most obvious lesson to be learned from the new and current adventures in metropolitan enterprise, like Dade County, Toronto, Seattle, and others.

No suggestion is implied here for consideration of full-scale metropolitan government for this, or any other area of our State. I'm persuaded, however, that the experiences of other metropolitan areas leave no doubt that those in this State will sometime face that specific decision, with the probabilities indicating positive action.

It is to that eventuality that my concern goes.

Again, it is simple observation which tells us that the transcendent difficulty in achieving adequate metropolitan machinery is not in the planning, nor devising nor financing of it. Rather, it is in the displacing or even modification, of established authorities, jobs, titles and procedures. Political responsibility and popular control is attainable in metropolitan organizations equally with those we call "local" jurisdictions. The cry that they are not, comes from the existing *channels* for popular control which foresee usurpation or eclipse.

If we consider simultaneously the conclusions that we may be forced to adopt some form of metropolitan government, sometime, and that the greatest barrier to doing so is the entrenched resistance to change, among existing authorities, then we can't ignore the wisdom of a policy against creation of additional jurisdictions which are distinctive in organizational structure and methods for representativeness.

All this advocates a general policy regarding future metropolitan districts, whether special purpose or multipurpose.

It is aimed at minimizing, if not precluding, the greatest single barrier to metropolitan consolidation of public effort, if that is ever needed. The policy would require

a. That the governing body of each district to be formed will be identical to all other such bodies in

(1) Number of members;
(2) Method for selection or election of members;
(3) Source and scope of authority;
(4) Authority to tax and to incur debt.

b. That the elements represented will be identical in nature to those represented by all other such districts; i.e., the constituents should be

(1) Individual, qualified electors; or
(2) Existing local jurisdictions; or
(3) Subdistricts of the district to be formed;
(4) Other acceptable units.

c. The concept of administrative organization and method for its control by the governing body should coincide with those features of all other such districts, that is, centralized administration, or not.

Now, what does this suggest, in more specific application to say, metropolitan planning? It seems to me that three results must be attained.

a. Structure and representativeness, in both method and degree, must permit convenient integration with the Bay area's existing Air Pollution Control District and Rapid Transit District.
b. The governing body must be politically responsible in same degree and to the same constituencies as are the governing bodies of the local jurisdictions comprising the district.
c. The authority of the district's governing body must derive from local sources, and in fact be a combination of the powers of local authorities.

In relation to the last of these three objectives, please consider the significance of a frequently reiterated fact Local governments in California already have the powers to resolve every recognized metropolitan problem *within their own jurisdictions.* The only factor which distinguishes the so-called metropolitan problem from the local problem is the greater area over which the problem has common and continuous incidence Thus, it follows that the action needed is merely the extension of the scope of existing powers commensurately with the scope of the recognized problem Innovations in neither the nature of powers, nor in their employment are needed. The simplest and best objective is a vehicle for combining and using in concert the powers we already have, in the forms with which they are accustomed to operate.

To give this urging more obvious stature, by associating it with a political philosophy firmly accepted and widely applied in our State, let me recall the principle of "home rule" as it pervades the legislative acknowledgments of the powers of local governments. If we accept the fact that metropolitan problems differ from what are now called local ones only in area, then it ensues that any dilution of those powers with organizational contrivances does violence to the home rule principle. Home rule by an area, on area problems, is just as compulsive as is home rule on local problems.

Since organization and methods for representation are simply devices for giving effect to governmental concepts, we must insure that they will not supersede the objectives they are bound to serve.

LOHN R. FICKLIN, City Manager

APPENDIX VI

A STATEMENT OF PRINCIPLES ON METROPOLITAN PROBLEMS

LEAGUE OF CALIFORNIA CITIES

PREAMBLE

With the vast increase in urban living and urban population has come the growth of urban areas which extend beyond the boundaries of a city or a county and include numbers of cities and counties and urban unincorporated areas.

With these metropolitan areas, problems and needs have arisen which require action on an areawide basis. Great public interest and some demand has arisen for the development of means for satisfying these areawide needs and solving the areawide problems.

Theories, ideas and proposals are being advanced from many sources. Various types of districts are being proposed and formed. Many of the theories and proposals fail to distinguish between area problems and needs, and local problems and needs in a metropolitan area, and propose to treat both in the same manner.

Recognizing the need for workable solutions to the areawide problems and at the same time firmly believing in the necessity for the continuance of strong cities providing local services and functions on a local basis and determining policy on municipal affairs, the time has arrived for the cities of this State to adopt a basic set of principles to be used as a uniform guide in judging and formulating proposals for solutions of metropolitan area problems, and to establish an orderly procedure for isolating area problems and proposing solutions therefor.

GENERAL PRINCIPLES

To serve these purposes the following general principles and procedures are formulated and proposed to the cities of California:

1. The right of local self-determination should remain with the citizens acting through their closest units of local government.

2. The best interests of the people of this State and Nation require the maintenance of strong, healthy cities which have the right of home rule and which provide local governmental services and perform local governmental and policymaking functions.

3. Local municipal affairs, involving policymaking, enforcement of laws and regulatory measures and governmental activities, are not proper subjects for inclusion in regional or metropolitan government and should be retained by the cities.

4. The complete political consolidation of all existing local governmental units (cities and or counties) to form a regional government for any California metropolitan area is basically unsound.

5. Functions and services performed by a city or a county should not be removed from a city or county and incorporated in a regional or metropolitan agency without the consent of the city or the county

6. Centralization or consolidation of services does not necessarily result in efficiency, economy or better government. Any proposal for centralization or consolidation of any function now performed by a city or a county on the basis of reducing costs and increasing efficiency should be rejected until after such savings and increased

efficiency are demonstrated and equated against noneconomic losses, such as: surrender of vital municipal powers, loss of responsiveness to needs and desires of the people, loss of standards of performance or enforcement, loss of character of the community, and creation of large unwieldy administrative organization.

7. There is no single solution for all problems in a metropolitan area. Each problem and each function or service proposed or considered for action on an area basis or inclusion in an areawide governmental unit must be carefully examined and a determination made only after complete studies which include consideration of the principles herein enumerated.

8. The problems of metropolitan areas vary and the solutions for one may not be applicable to another.

9. After analysis and complete study, and subject to such general principles, certain broad categories of service and functions which lend themselves to areawide performance and to possible inclusion in metropolitan government may include:

a. Utility-type services, such as:
   Water;
   Electricity;
   Transportation.
b. Service functions, activities and professional services such as:
   Sewage disposal;
   Flood control;
   Garbage and waste disposal;
   Laboratory services.
c. Functions which by their very nature require areawide treatment such as:
   Air pollution control;
   Regional planning.

10. When single-service or multipurpose districts are created the legislation should include provisions:

a. To insure that the district be organized in a manner which will permit it to combine with other districts so as to make a combination of districts into a unit of metropolitan government possible at a future date, if and when such action becomes necessary and desirable.
b. To provide for local control and direct local responsibility through a governing body responsible to the cities and counties within the district and selected by and serving at the pleasure of the legislative bodies of the cities and counties. This shall not preclude the selection of any member of such legislative bodies and such members may serve concurrently as members of such legislative bodies and as members of the governing body of the district.

   (Examples of methods of formation of the governing bodies of districts to meet these criteria are: The Metropolitan Water District in the Los Angeles area, and the San Francisco Bay Area Air Pollution Control District.)

11. The area proposed to be included in a district or unit of metropolitan government must be in fact the area best suited for the purpose

proposed or in which to render the service or services proposed, as determined by all factors relevant to the particular case including geography, economics, engineering, social and cultural factors, and the requirements of the particular service or services to be rendered.

SUGGESTED ACTION PROGRAM FOR CONSIDERATION

The cities in each metropolitan area must take affirmative action to implement the principles. The cities should establish the mechanics for joint action in each such area so that legislation which is proposed may be reviewed, judged in light of these principles, and joint action taken thereon These principles will also require interpretation in view of varying conditions in different areas. Therefore, an agency should be established with the purpose of identifying and studying the truly metropolitan problems and trends, and proposing solutions therefor.

To establish such an agency and implement the principles herein set forth, three factors suggest a possible solution:

First, elective and appointive officials of the cities of this state have demonstrated their ability to work together on both formal and informal bases to solve mutual problems.

Second, there is an existing vast reservoir of experienced administrative talent in the cities to assist and guide those who are designated to work out the solutions to area problems and to distinguish between area problems and local problems.

Third, under the Joint Exercise of Powers Act, the cities may contract among themselves for the establishment, financing and operation of such an agency.

It is, therefore, proposed that the cities in each metropolitan area establish a metropolitan council, composed of one or more members of each city council (mayor or councilman). The counties in the metropolitan area should be invited to participate. Consideration should also be given to extending membership to the existing area governmental agencies.

The functions of the metropolitan council would include:

1. Review of all proposals for area or metropolitan governmental units or agencies and recommend to its members appropriate action on each such proposal.
2. Study problems, functions and services in the metropolitan area, isolate the area problems, functions and services, and propose appropriate action thereon.
3. Such other functions as the members deem appropriate for the council.

If the metropolitan council is to be formal rather than informal, the detailed procedures would be set out in a contract drawn pursuant to the Joint Exercise of Powers Act. In this contract provision would be made for financing the council and one of the cities could be designated to receive, disburse and account for funds and subject to the approval of the council, provide personnel.

Through the adoption and implementation of the principles and criteria herein proposed and the establishment and operation of a metropolitan council in each metropolitan area, the cities of California will evidence their initiative, indicate their interest in and demonstrate their ability to resolve metropolitan problems.

APPENDIX VII

METROPOLITAN DISTRICT LEGISLATION: SOME PROBLEMS AND ISSUES

By Stanley Scott

December 15, 1958

Bureau of Public Administration
Dwight Waldo, Acting Director
University of California, Berkeley 4

INTRODUCTION

This memorandum has been prepared at the request of the Subcommittee on Planning of the California Assembly Interim Committee on Conservation, Planning and Public Works for presentation at a public hearing in San Francisco, December 16, 1958. The report attempts to outline some of the problems and issues which will have to be decided if and when general or special legislation is drafted for the creation of additional metropolitan districts or authorities in the San Francisco Bay area or in other California metropolitan areas.

In the following pages, the *area requirements* of metropolitan district legislation will be considered first, after which the question of representation and the *makeup of the district governing body* will be discussed. Next, some of the *functions* which might be undertaken by a metropolitan district are examined, and finally the problem of *district finance* is touched on briefly.

THE AREA PROVISIONS OF DISTRICT LEGISLATION [1]

If the legislation is general in scope and applicable to any of California's several metropolitan regions, the provisions for determining the area to be served, and for enlarging the area, should allow for a good deal of flexibility and variety. Inclusion of all or portions of one or more counties should certainly be permitted, as well as one or more cities. It is doubtful, however, that there would be any need to permit the inclusion of portions of cities.

Another element of flexibility would be added if the designated area of district activity could be varied according to the function performed. For example, the district might be two-county in scope for the purposes of sewage disposal, and five-county for regional planning. This would, of course, also necessitate flexibility in the makeup of the legislative body, possibly along the lines followed by the federated government of Baton Rouge and East Baton Rouge Parish, Louisiana.

Still another element of flexibility would be introduced if the district were permitted to operate in noncontiguous areas. For example, two or more cities located some miles apart might wish to co-operate under the district legislation in building an interconnecting rapid transit line. It might be desirable to permit the cities to do this without requiring the inclusion of the intervening unincorporated territory. On the other

[1] See Appendix A, pp 90-91 for information on the areas served by 16 selected metropolitan districts

hand, if areas which are important to the successful operation of a district are allowed to remain out because of a rigid interpretation of the concept of home rule and local option, the resulting district may be little more than a useless patchwork.

The addition of new territory to the district after its original formation could follow one or more of several courses. The legislative body of any city or county might be empowered to request extension of the district's activities, or a popular vote within the area in question might be required. Presumably the district's legislative body would have to be consulted before territory could be added, and would also be able to initiate annexation proceedings.

The legislation establishing the Bay Area Air Pollution Control District has an interesting feature in this regard. The district includes all nine Bay area counties, but under the original law was not "activated" in the three northern counties. Passage of a resolution by the board of supervisors is sufficient to activate the district in one of the three nonparticipating counties.

One further note: Some district enabling laws provide for a formation election which gives the outlying areas a veto, regardless of the overall vote. The new Washington state legislation, for example, requires a majority vote both in the central city of a proposed district, and in the area outside the central city. Last March a proposal to form a metropolitan district for sewage disposal, transportation and regional planning in the Seattle area was defeated by the noncity vote, although there was a districtwide favorable majority. In September a much smaller metropolitan district for sewage disposal only was approved.

THE QUESTION OF REPRESENTATION [2]

The question of representation is crucial to the setting up of a metropolitan district or authority. How should the governing body be chosen if it is to provide an effective and responsible forum for discussion and policymaking? What agencies and groups have a legitimate concern with the functions of the district? How can the "public" interest be insured due consideration in district deliberations? These are a few of the questions which must be asked when the system of representation and the makeup of the district's legislative body is being decided.

Direct Election and Gubernatorial Appointment

Direct election as a method of selecting metropolitan district boards of directors has serious limitations. Ironically, experience shows that direct election does not insure effective popular control, especially when the voters are forced to consider a long ballot of elected officials, including the directors of numerous special districts. The election record is often one of voter unawareness and low participation. If the district election is not held at the time of a general election, voter participation is nearly always extremely low. And if the district election is consolidated with a general election, while the level of participation goes up remarkably, the voter rarely knows for whom or for what issues he is voting when it comes to district matters.

No doubt direct election can be effective in the case of a general metropolitan government, such as Dade County or London County, but cur-

[2] See Appendix A, pp. 94-95, for a summary of information on the system of representation employed in 16 selected metropolitan districts

rent thinking and practice does not favor direct election for a limited purpose metropolitan district:[3]

> Among the large metropolitan authorities, direct election of the board members is used by a small minority of them. The ballot box may be the way to set up federated metropolitan *councils,* but it is a questionable device for constituting limited-purpose boards for authorities. Like the long ballot for electing administrative officers, a long ballot for electing within one area separate authority boards may baffle and overburden the voters. [Emphasis in original]

Gubernatorial appointment of metropolitan district or authority governing boards has been employed in a number of different situations. When the area to be served lies in two or more states, appointment by the governors of the participating states has been the normal procedure. When the state is comparatively small (by California standards) with only one major metropolitan area, gubernatorial appointment has sometimes been resorted to—the Massachusetts Metropolitan District Commission, for example. And when the activity of the agency is statewide in scope, as in the case of the South Carolina Ports Authority, gubernatorial appointment of the board may be practiced. There are other special and historical situations in which appointment is made by the governor—the Port of San Francisco, for example, has been in the hands of the Board of State Harbor Commissioners since 1863 (name changed to San Francisco Port Authority in 1957).

While appointment by the governor is by no means condemned, it has been criticized as being an infringement on local self-government, or as creating an agency which is not sufficiently responsible to the population which it serves. Thus Arthur Bromage, professor of political science, University of Michigan, considers that gubernatorial appointment does not further the cause of self-government, although it may result in effective administration:[4]

> Gubernatorial appointment is neither nonrepresentative nor misrepresentative, but it is not metropolitan self-government * * * the actions of a governor in appointing metropolitan authority boards are only indirectly and tangentially subject to control at the polls.

John C. Bollens, Professor of Political Science, University of California, Los Angeles, sees gubernatorial appointment as one of the reasons why districts and authorities may become remote from the people.[5]

> The only possible regular channel of control is through the legislature or the Governor, but such a route is often too circuitous to be effective.

The recent Arden House conference on metropolitan problems, sponsored by five New England governors and the Mayor of New York City, emphasized local responsibility for action, and suggested locally controlled metropolitan districts as alternatives to independently constituted authorities, even in situations involving two or three states:[6]

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[3] Arthur W. Bromage, "Political Representation in Metropolitan Areas," *American Political Science Review* 52, 406-418, June, 1958

[4] *Ibid.*, p. 410

[5] John C. Bollens, *Special District Governments in the United States* (1957), p. 89.

[6] Arden House Conference on Metropolitan Area Problems, *Report * * * September 21-23* (1957), pp. 9-10.

Local responsibiliy for progress in local affairs is basic to the American system. Wherever local governments, recognizing their membership in a metropolitan community and their interdependence with their neighbors contribute to the solution of metropolitan area problems, that is the ideal course.

Where a metropolitan region crosses state lines, the states involved should act to facilitate bistate or tristate action to achieve regionally valuable objectives.

One device for regional activity which can be extended across state lines is the independently constituted authority [such as the Port of New York Authority]. Another method is the metropolitan district, with direct representation of the constituent localities on its governing board and with direct or indirect taxing power.

The Principle of Constituent-Unit Representation

In recent years, both thought and practice have favored the constituent-unit principle of representation for metropolitan special districts. Under this principle the legislative body of the district is appointed by (and often from) the councils of the basic local governmental units served by the district—the cities and counties.

The philosophy on which such a system of selection is based can be summarized as follows:

1. The metropolitan district, whatever its functions, will be concerned with matters which also concern the cities and counties in the district area. Thus, some kind of direct and built-in linkage will be advantageous to help insure a co-ordinated approach to common problems.

2. If the district is to be an agency of self-government, it must be locally rooted, i.e. its board must be either directly elected or selected from constituent groups.

3 The major function of the district's governing body is not administrative but political—the making of policy For this reason, it has been suggested that the board be made up of responsible officials, preferably elected. However, since direct election of district boards has been found unsatisfactory, it is suggested that the boards be chosen from among the elected city councilmen and county supervisors.

4. Local government in metropolitan areas will be strengthened and invigorated by being given the opportunity to participate directly in metropolitan decision making The creation of autonomous authorities will weaken rather than strengthen the other units of local government in the area.

5 The employment of a federal district structure, with representation of the constituent local units, permits a conservative, gradual and evolutionary approach to the problem of metropolitan government. Using such an approach it should be possible to undertake individual areawide responsibilities from time to time, when circumstances require action, without having to create a full-fledged metropolitan government at the outset. The politics of most metropolitan areas is such that complete consolidation of existing governments into a "supergovernment" would be impossible to achieve in the near future, even if it were desirable, which it probably is not. A district or series of districts with constituent-unit representation offers a solution that is politically feasible,

The points summarized above outline a reasonably coherent philosophy of local government in metropolitan areas, to which recent practice and experience lends a good deal of support. The principle of constituent-unit representation is already employed in a number of California and Bay area districts—the Metropolitan Water District of Southern California, the County Sanitation District of Los Angeles County, the Bay Area Air Pollution Control District, and the San Francisco Bay Area Rapid Transit District, for example.

Furthermore, other areas have turned to the same principle, the most notable example in North America being the area of Toronto, Canada, where a metropolitan council has been in existence since 1954. In 1957 the State of Washington enacted general legislation making it possible for any metropolitan area in the state to establish a multiple purpose special district embodying constituent-unit representation.[7] Two areas have already made use of the Washington legislation. A voluntary metropolitan council in the tristate area of New York City and environs is based on the same principle. These are only a few examples of a practice that is quite widespread.

Possibly a review of some of the statements made by various officials and observers will give a clearer idea as to the kind of thinking which underlies the idea of a federated metropolitan structure with constituent-unit representation. Arthur Bromage emphasizes the principle of constituent-unit representation as follows:[8]

> More promising [than direct election] for obtaining representation in metropolitan authorities is the use of constituent units of local government. One precedent for such an indirect system is the London Metropolitan Water Board, established in 1902 The governing bodies of the local units comprised within this English authority's area appoint the members of the Water Board from among or outside their own membership. California turned in the same direction in 1928 in creating the Metropolitan Water District of Southern California. * * *
>
> California recently made further use of constituent-unit representation [in organizing the Bay Area Air Pollution Control District and the San Francisco Bay Area Rapid Transit District]. * * *
>
> Constituent-unit representation is a compromise which augurs well by providing authorities with indirect metropolitan political representation. * * * It has advantages in permitting the rapid estabment of a seasoned board or council; in promoting liaison between local units and an authority; and in avoiding the long ballot.

Luther Gulick, President, Institute of Public Administration, and first city administrator, City of New York, argues that the work of a metropolitan council or district governing body is policymaking, and that such an agency is thus a political entity which must be controlled by responsible officials:[9]

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[7] Wash Session Laws, 1957, ch. 213

[8] Arthur W Bromage, "Political Representation in Metropolitan Areas," *American Political Science Review* 52: 406-418, June, 1958

[9] Gulick, *Metro* (Government Affairs Institute, 1957), pp. 26-27.

> * * * we now need to create in some of the larger metropolitan areas an entirely new layer of areawide self government broad enough to cover the metropolitan map. * * *
>
> The major task of this new layer of local self-government is not primarily administrative. It is political, namely the development and adoption of major plans and policies for the entire metropolitan region. * * *
>
> [These] are "legislative responsibilities," as we use the word in the United States They are not tasks for a planning commission or for one or more irresponsible "authorities," or for any small group of "handpicked experts."
>
> What I am therefore suggesting is that we now need for each major metropolitan region a wide-reaching sublegislative body, a local "Metropolitan Council," to give the required body a name. And again, following American traditions, I think this council should be made up entirely of elected officers. Some might well be directly elected by districts or at large, some might serve ex officio on the basis of their election to some other local governmental office, such as existing city mayors and county commissioners and presidents * * *

Two representatives of the League of California Cities recently urged the constituent-unit principle of representation in the following terms: [10, 11]

> * * * *the governing body of a metropolitan government should be selected from among the members of the governing bodies of the existing local governments.* This will provide immediate political leadership and experience to the new governing body and should allay the fears of the most ardent advocates of municipal home rule. If metropolitan government is to take over and provide municipal type services or to establish uniform and minimum services to be provided by municipalities, those experienced in determining policy with respect to these matters and responsive to the electors of a smaller unit should comprise the governing body of the metropolitan government. [Emphasis in original.]
>
> * * * * * * *
>
> *The structure* of the metropolitan government is of paramount importance. [Emphasis in original.] * * * Our emerging metropolitan structure here was based upon making it
>
> a. politically responsible,
> b. locally rooted, and
> c. permissive of a co-ordinated approach to areawide problems as they emerge.
>
> Basically what this means is an "evolutionary federation" approach rather than a "supergovernment" approach; a recognition of the important continuing role of existing local government rather than governmental consolidation; a recognition that in

[10] Richard C. Carpenter, "Is Dade County Plan Applicable to the California Experience?" *Western City* 34 26-27, November, 1958

[11] Wesley McClure, *The Emerging Pattern of Metropolitan Government in the San Francisco Bay Area* (paper prepared for presentation before the California State Chamber of Commerce, San Francisco, December 4, 1958).

organizing to take care of one metropolitan problem you should not at the same time propagate an inherent organizational blindness toward other problems of the metropolitan area.

This approach has guided the establishment of two organizations to resolve (1) the Bay area air pollution problem (in 1955) and (2) the Bay area rapid transit problem (in 1957).

Norton Long, professor of political science, Northwestern University, sees the metropolitan problem as a crisis threatening the strength and vitality of local governments in the urban areas. While Long does not argue specifically for a federal arrangement with constituent-unit representation, he supports a program of moderate reform which would build on the existing local system and strengthen it by providing new opportunities for effective self-government.[12]

The problem of the metropolitan area is the problem of restructuring the most populated part of American local government so as to give it the ability to cope with presently unmanageable problems and by so doing renew its vitality. This is a job of constitution making in the classic sense * * *

The central city in many cases has lost its power to meet the problems that confront it. The suburbs likewise provide no field of significant action. * * * Both the formal and informal organization of the emerging metropolitan area are wasteful of human energy and immensely difficult to operate. While the emerging metropolitan community is as yet too embryonic to structure a new civic life it deprives the older units of their former significance. Many of the things people want to accomplish cannot be achieved through existing local governments. Loyalties are thereby lost without being transferred to new and more effective political communities. * * *

If the real menace of the metropolitanization of our Country is less the mere problem of service headaches than the draining of vitality from local government then our desired solution is only partially the technical solution of service problems and quite as much the restoration of significant opportunities for local self-government. * * *

[A] major purpose in recreating local government is to offer as a value to be achieved a significant possibility of controlling important affairs.

Finally, it is of interest to note the recent investigation conducted by the Metropolitan Toronto Commission of Inquiry. This body was established in 1957 by the Government of Ontario and directed to study the activities of Toronto's federated metropolitan government during its first four years of operation. After extensive hearings the commission has issued a statement supporting the principle of constituent-unit representation as embodied in the Toronto plan:[13]

[12] Norton E Long, "Recent Theories and Problems of Local Government," *in* Friedrich, Carl J, and Seymour E Harris, ed, *Public Policy—A Yearbook of the Graduate School of Public Administration, Harvard University: 1958* Pp 285-295 Cambridge, Massachusetts, 1958

[13] Ontario Metropolitan Toronto Commission of Inquiry, *First Report* 27 pp (mim) Toronto, March 14, 1958.

With respect to the composition and organization of the metropolitan council and the metropolitan school board, the evidence disclosed a wide variety of opinions and a number of interesting and ingenious suggestions ranging from comparatively minor revisions to far-reaching and drastic reforms. Nevertheless, the most significant feature of the evidence submitted on this subject was undoubtedly what seemed to your commission *a surprising amount of satisfaction* with the present type of council and school board *and an unwillingness to make any drastic change in the existing organization* at the present time or in the immediate future. [Emphasis supplied.]

A LOCAL EXAMPLE OF CONSTITUENT-UNIT REPRESENTATION: THE BAY AREA AIR POLLUTION CONTROL DISTRICT [14]

There are many different formulas for constituent-unit representation. As a starting point for discussion, however, it will be useful to take a look at the Bay Area Air Pollution Control District as a prototype for the San Francisco region. Possible modifications of the district's pattern will also be considered.

The governing board of the air pollution control district consists of two representatives from each county area within the "activated" portions of the district. One member of each pair is a county supervisor, chosen by the county board of supervisors. The other representative is a city mayor or councilman chosen by a "city selection committee" made up of the mayors of all the cities within the county.

The district's governing board thus constitutes, in effect, a "federation" of the participating cities and counties, six of the board members representing the counties, and six representing the cities. If the district should be activated in one or more of the three counties not now participating, the district board would be expanded accordingly to a possible maximum of 18 members.

The governing board is required to create a Bay Area Air Pollution Advisory Council to advise and consult with the board in developing the district's program The advisory council consists of the chairman of the district board, who serves in an ex officio capacity, and 20 members who preferably are skilled and experienced in the field of air pollution control, including at least one representative of colleges or universities in the State, and at least one representative of each of the following groups within the district: health agencies, agriculture, industry, community planning, transportation, registered professional engineers, general contractors, architects, and organized labor.

The district's primary function is to conduct an air pollution investigation program, and to adopt rules and regulations controlling the release of contaminants into the atmosphere. The district has been given a limited grant of police power in the field of air pollution control. This grant of power to the district does not prohibit the enactment and enforcement of stricter control provisions by the individual cities and counties.

The district may require its member counties to levy a property tax for the support of district activities. Each year the district board must determine its budget for the ensuing year and apportion the total

[14] Cal Stats, 1955, Ch. 1797.

amount among the member counties, one-half according to the relative value of the real estate in each county, and one-half in proportion to the population of each county. The total amount required for district purposes during any one fiscal year cannot exceed $0.01 per $100 assessed valuation of all the property within the district.

Major Features of the Air Pollution Control District

The air pollution control district embodies certain organizational features, the pros and cons of which should be studied when consideration is being given to the establishment of any new regional districts:

(1) The district is headed by a policymaking board representing the cities and counties of the Bay area, thus giving the local governments a voice in the administration of district affairs. This was done, in part, because the cities and counties were considered to have a vital interest in any local public function, and because their direct participation would help to insure co-ordination of public policy throughout the area. The district provides an official agency through which representatives of the local government can arrive at policy decisions and take appropriate action.

(2) Each member of the district board is an elected policymaking official in his own city or county.

(3) The district board as now constituted equates each county government with the sum total of all the city governments within the county area. This is done by providing two members from each county area—one representing the county government and the other representing the cities.

(4) Representation on the board is by "area," or by jurisdiction, not by population (see discussion below).

(5) The district as established by law includes all the nine Bay area counties, but has been activated in only six counties. It cannot conduct business, apportion assessments or include representatives from any of the other three counties until authorized to do so by the county board of supervisors. Thus the district as originally created encompassed the area of estimated ultimate need, but at present operates only in those portions of the area now desiring its services.

(6) Representation of experts and interest groups is provided for on the 21-man advisory council which the district board is required to create and consult.

Possible Modifications of the Air Pollution Control District Pattern

Although the air pollution control district is an interesting and significant experiment aimed at the joint solution of mutual problems by the communities of the Bay area, its organizational arrangements as they now stand may not be the final answer to all the Bay area's needs. At any rate it is appropriate to consider the possibility of certain modifications in the air pollution district pattern, when it is considered as a prototype for other districts.

The representation allotted different parts of the district does not reflect variations in population or assessed valuation. First, each county area has the same representation—two directors. San Francisco City and County, for example, with a population of 791,000 and an assessed valuation of over $1,300,000,000, has the same voice as the residents of

Marin County, with a population of 136,800 and an assessed valuation of $177,000,000. If the district were to be activated in Napa County, the Napa County area with its 63,500 people and $68,000,000 assessed valuation would have a vote equal to that of San Francisco.

Second, all the cities within any one county are on an equal footing in the "city selection committee." In Alameda County, for example, Pleasanton, with a population of 3,300 and an assessed valuation of $3,000,000, has the same voting power as Oakland, with a population of over 400,000 and an assessed valuation of $566,000,000. In Contra Costa County, Richmond, with its 75,000 people and $140,000,000 assessed valuation is equated with Hercules, which has some 350 residents and an assessed valuation of $3,400,000.

This kind of representation by "area," or by jurisdiction, has been widely employed in the United States and is considered necessary and desirable by many people for certain purposes. But provision for adequate representation according to population is also an important element in our system of government and must not be overlooked.[15]

There are several possible modifications of the district board's voting rules and appointment procedure which might be considered in drafting legislation for new metropolitan districts.

(1) The vote of each district director could be weighed in strict proportion to the population or assessed valuation (or both) of the area he represents (see Table 1, p. 97).

(2) Some combination of equal vote allocation (the present air pollution control district system) and proportional weighting could be employed. There are any number of ways to do this, one of which is illustrated in Table 2 on p. 98. Half the votes are distributed in proportion to the population of the area represented (column 1), and the other half are distributed equally among all county areas (column 2). Column 3 shows the number of votes which would be assigned to each individual board member, and column 4 the total vote assigned to the two members from each county area. Column 5 shows the percentage distribution of voting power apportioned in this way. Thus, for example, the two board members from Santa Clara County would have a total of 80 votes to cast: the representative of the cities would have 40 votes, and the representative of the county board of supervisors, 40 votes.

(3) Instead of weighting the vote of the district directors, additional directors could be appointed from the more populous areas according to an agreed-upon formula. Table 3 on p. 98 compares the voting power distributions among the nine county areas which result from the use of several different allocation formulas. Table 4 on p. 99 shows the voting power distribution among the five counties participating in the San Francisco Bay Area Rapid Transit District, established in 1957. Table 5 on p. 99 compares the distribution of voting power among the 13 metropolitan Toronto municipalities with the distribution of population and assessed valuation.

[15] See Table 5, p 99, for an indication of the extent to which the Municipality of Metropolitan Toronto departs from a strict population basis in the allocation of voting power among constituent units. It should be noted, however, that the equal division of voting power between the City of Toronto, on one hand, and the 12 suburban municipalities, on the other, is in accord with the nearly equal division of population between the two

(4) The vote of each mayor on the city selection committee could be weighted by a method similar to those referred to in paragraphs (1) and (2) above.

(5) The chairman of the district governing board could be chosen by direct election from the district at large. Direct election of the chairman would provide at least one officer representing the district as a whole, and would also help remedy the problem of representation discussed above. The chairman could be given responsibility for developing a program for the district and bringing recommendations to the board. The chairman might be given authority to appoint the chief administrative officer of the district, with the advice and consent of the board.

POSSIBLE FUNCTIONS OF A METROPOLITAN DISTRICT [16]

Among the functions and facilities which could be provided through a metropolitan special district are the following:

1. Transportation and transit facilities, including rapid transit, bridges, ports, airports, and rail, bus and truck terminals.
2. Water supply.
3. Water pollution control and sewage disposal.
4. Air pollution control.
5. Garbage and refuse disposal.
6. Regional parks and other regional recreational programs and facilities.
7. Phases of law enforcement, social welfare and public health—for example, areawide co-ordination and the encouragement of uniform standards in crime detection and prevention, juvenile delinquency control, social welfare, and public health.
8. Regional planning, or advisory co-ordination of local public works and capital outlay programs within a metropolitan area.
9. Regional co-ordination of urban renewal and slum clearance programs.
10. Areawide support for and co-ordination of public education activities.
11. Areawide co-ordination in field of fire protection.
12. Equalization of financial differences among constituent units, and the underwriting, by the metropolitan unit, of bonds issued by constituent units.

Most of these possible metropolitan functions are discussed below and illustrated with examples drawn from the San Francisco Bay area and other California regions.

Transportation and Transit Problems

California's metropolitan areas have some of the poorest public transit systems that are to be found in the United States. This is probably in part a cause and in part a result of Californians' heavy use of the automobile. It is also a result of the low densities and population dispersal which characterize California's metropolitan areas, especially Los Angeles. Certainly population dispersal makes it much more difficult

[16] See Appendix A, pp. 92-94, for information on the functions of a selected group of metropolitan districts

to find an adequate and satisfactory solution to the transportation problem.

At present, California depends primarily on the automobile for rapid transit in metropolitan areas. The resulting transit "system," is tremendously expensive when one considers the cost of the additional automobiles needed, as well as the gasoline, oil, repairs, and insurance required, not to mention the original cost and upkeep of the multilane freeways which must be constructed in a never-quite-successful attempt to provide for the peak-hour loads. One must also figure in the man-hours of time consumed in driving to and from work through slow-moving traffic. All these elements must be included in the cost of maintaining our present "system," which hardly anybody would claim is adequate.

An important transportation problem in the San Francisco Bay area relates to the building of bridges. There are two bridge authorities: the State Division of Bay Toll Crossings and the Golden Gate Bridge and Highway District, the former being the active building agency. Yet there are difficulties for, despite general agreement that there should be a second crossing between the East Bay and the West Bay, 10 years of study and controversy have not produced a workable agreement on what kind of bridge or tube to construct, or where it should be located. Maybe we need some kind of regional metropolitan council with effective and responsible local representation to serve as a forum for airing and settling controversies such as the question of the second crossing.

Water Supply

The metropolitan water supply problem was just about the first large-scale problem which California's metropolitan areas had to face. It has been dealt with more successfully (to date, that is) than has almost any other major metropolitan problem. Los Angeles' Owens Valley project, San Francisco's Hetch Hetchy, the East Bay Municipal Utility District's Mokelumne River sources, the Colorado River connections of the Metropolitan Water District of Southern California, and the Sacramento Municipal Utility District's American River plans and facilities, all represent reasonably effective attempts to develop governmental programs equal to the need for water in metropolitan areas.

Two additional points need to be made, however. (1) It is not clear how much farther the metropolitan areas can go in continuing to meet the water supply need without major state assistance, and maybe federal help. (2) Some of the emerging metropolitan areas (or subareas) may need state help immediately—the Santa Clara Valley, for example.

Water Pollution Control and Sewage Disposal

The statewide water pollution control program with its state board and regional boards was established some 10 years ago to handle the water pollution control problem. A great deal has been accomplished, although some people and interests believe the program is moving too slowly. Possibly a regional district empowered to assist with difficult local sewage disposal problems would be able to expedite the cleanup

program. However, most portions of the major metropolitan areas are reasonably well organized for sewage disposal. The primary problems are found in some of the newly developed and suburban communities

Air Pollution Control

The two largest metropolitan areas—Los Angeles and San Francisco —are effectively organized for air pollution control, thanks to state legislation adopted in 1947 and 1955 respectively. There is, however, also some discussion of the need for a very large regional district encompassing the Central Valley (or for two districts in the Sacramento and San Joaquin Valleys).

Garbage and Refuse Disposal

The air pollution control programs in Los Angeles and San Francisco, with their bans of open dump burning, have focused attention on the need for regional systems of garbage and refuse disposal, or at least for a regional system of incinerators, fill and cover operations and other necessary facilities. Los Angeles has taken important steps to meet the problem, but the San Francisco Bay area is still struggling.

Regional Recreational Problems

Despite the fact that the cities, the counties, a few special districts, the state and the federal governments are all in the business of providing recreational facilities, there is clear evidence of need for a metropolitan regional approach to recreation, at least in the San Francisco Bay area. When the Federal Government offered Angel Island to the Bay area for recreational development some years ago, neither San Francisco nor any other individual jurisdiction would accept responsibility for such a regional facility, despite the almost unanimous agreement that the island did have a real potential So nothing was done, largely because there was no regional agency to do anything.

The case of the San Pablo Reservoir watershed may be similar to the Angel Island story. The San Pablo watershed has been declared surplus by the East Bay Municipal Utility District, which proposes to sell it for subdivision purposes. The area apparently is a reasonably good site for needed park development, and a number of local groups and agencies are interested, but no satisfactory arrangement has been worked out. This is partly due to the costs it would entail, and partly due to conflicts between EBMUD watershed and reservoir maintenance policies, on the one hand, and recreational use needs on the other. An effective regional recreation agency might be able to devise a workable plan.

In the absence of a unified multicounty regional recreational program in the Bay area, the remaining open spaces suitable for development as regional parks within the metropolitan area may disappear in the next decade.

Law Enforcement, Social Welfare, Public Health

Improved co-ordination or the development of areawide programs are especially desirable in major crime detection, crime prevention, the handling of juvenile delinquency, police intercommunication, and the

maintenance of centralized records, not to mention other police, welfare and public health functions.

Take juvenile delinquency as an example: In the San Francisco Bay area there are not only some 100 separate city and county police and sheriff's forces concerned with juvenile problems, but also about 250 separate public school systems, additional private schools, nine county welfare departments, nine elected district attorneys, and a whole array of courts and judges. With such a fragmentation, it would be extremely difficult to develop and carry out a unified and effective juvenile program. The necessary co-ordination might be forthcoming if there were an areawide governmental council with some authority and with representation from the cities, counties, school districts and other agencies concerned. * * *

Regional Planning

For planning and zoning purposes the Bay area is split up among some 80 cities and nine counties. This makes it difficult to develop co-ordinated general plans for the entire region, within which the individual local plans could fit. It is ironic that the Bay area, with probably as many active local planning departments and more professional planners than almost any other metropolitan area in the United States, should have lost one of its top planners (Paul Oppermann of San Francisco) to the Chicago area, where a multicounty regional planning agency went into operation in the summer of 1958.

The planners have long been trying to get a metropolitan planning agency established here in the Bay area. Enabling legislation is already in the books, but a further careful look would appear to be in order, since no Bay area planning agency has been created.

It should be pointed out that something has been done in several areas. For example, in San Mateo County the cities and the county got together in an effort to develop co-ordinated plans. Fresno County and the cities in the Fresno metropolitan area have completed a metropolitan area planning study under joint auspices. These and several other efforts emphasize not only the possibility of but also the need for continuing regional planinng activities.

Financial Equalization and the Underwriting of Indebtedness

The State Government is the primary agency which carries on a program of fiscal equalization among local governments. The school aid program and the State's shared gasoline and motor vehicle taxes illustrate the way in which state collected funds are redistributed among local units on the basis of need, at least in part. Despite these and other state aids, however, there are still marked differentials among local governments in terms of fiscal capacity. A well-financed metropolitan district might be able to help smooth out the effects of these differences.

Here are a few examples of the kinds of variations found among local units. The Cities of San Pablo in Contra Costa County and Seaside in Monterey County had per capita assessed valuations of $55 and $622, respectively, in 1956-57. The statewide average for cities was $1,484. Hillsborough in San Mateo County has a per capita valuation of $3,571; Emeryville in Alameda County had $15,523; and Ver-

non in Los Angeles County had the astronomical figure of $527,000 assessed valuation per capita.

A recent survey of elementary school districts in Contra Costa County showed that while the countywide average assessed valuation per pupil in average daily attendance was $10,200 in Fiscal Year 1956-57, there were three districts with less than 50 percent of the countywide average, and nine districts with less than 75 percent of the countywide figure. At the other extreme, there were fortunate districts with per pupil valuations of $25,000, $30,000, $37,000, $110,000, and $125,000 These figures illustrate the fiscal variations among governmental units in metropolitan areas which make it difficult for some of the localities to finance adequate minimum levels of service.

Another important financial problem relates to the difficulty which small units of government experience in borrowing money, as compared with larger units. The smaller units do not have as good a credit rating and must pay a higher rate of interest. An areawide governmental unit could be expected to have high ratings and to command low interest rates.

The municipality of Metropolitan Toronto, for example, has a very high credit rating, exceeded only by the Province of Ontario and the federal government of Canada. Before the metropolitan government was established, many of the individual cities and townships had real difficulties in marketing their bonds, and paid high interest rates. Since the reorganization, the credit of the metropolitan government stands behind all bonds issued by any local government in the Toronto area. As a result, it is estimated 21.5 million dollars have been saved in interest charges alone during the first four years of the metropolitan government's existence.

FINANCING A METROPOLITAN DISTRICT [17]

The first principle in providing for the financial powers of a district is obvious: Give the district sufficient fiscal authority to support the function or functions it is established to fulfill. But the answer to question as to where the district should be allowed to look for the necessary funds is far from obvious.

The usual California procedure in passing a special district enabling act is to provide for a property tax, usually up to a specified limit. And it would appear that some access to the property tax is important, at least in the early stages of a new agency's existence, for purposes of floating bond issues The Stanford Research Institute report on the proposed San Francisco Bay Area Rapid Transit System had this to say: [18]

> Since the faith and credit of the transit district would be needed to make the transit bonds marketable on economical terms, a general property tax is indispensable. Such a tax need not necessarily provide all the funds needed to service the bonds so long as the taxing power is available as underlying security.

[17] See Appendix A, pp 96-97, for information on the fiscal powers of 16 selected metropolitan districts

[18] Stanford Research Institute, "Organizational and Financial Aspects of the Proposed San Francisco Bay Area Rapid Transit System," in San Francisco Bay Area Rapid Transit Commission, *Report to the Legislature of the State of California* (December, 1957), pp 108-109

Even if the district is expected to develop only functions which can be self-supporting, it may well need taxing power, or some kind of nest egg, to help it get started. The early years of the now wealthy Port of New York Authority were lean indeed because it had no built-in source of funds. The authority did not accomplish much until it turned from its original purpose—the introduction of order into the harbor and rail system of the port—and embarked on a subsidiary but eventually lucrative program of bridge, terminal and airport construction and acquisition.[19]

The review of district revenue sources in the Stanford Research Institute report just referred to probably gives as good a listing as any of the range of possibilities. These include: (1) the property tax, (2) fares and other service charges, (3) bridge tolls, (4) a regional sales tax, (5) a regional gasoline tax. In practice, the vast majority of special districts rely on the property tax, or on service charges, or both (see Appendix A, pp. 23-25).

APPENDIX A

Summary of Special District Survey *

The experience of 16 selected metropolitan districts and authorities is summarized here in the hope that it will provide some practical guideposts for citizens, local officials and legislators concerned with problems of metropolitan government.[1] The experience of the districts and authorities is analyzed under the following headings: (1) area served; (2) district functions; (3) the composition of district governing bodies; and (4) finances.

Area Served

All except one of the 16 districts and authorities which were surveyed encompass a considerable number of pre-existing local governments. The single exception is the Chicago Park District, which covers only the City of Chicago.

Twelve of the districts include all or major portions of the metropolitan areas within which they operate, and several are so large in terms of both area and population as to justify classification as "regional" governments. The Metropolitan Water District of Southern California serves a population of 6,500,000 in a 2,800-square-mile area, to which it transports Colorado River water across the width of the State of California. The Port of New York Authority includes an even larger population of over 13,000,000, although in a somewhat smaller area of 1,500 square miles in New York and New Jersey. The Delaware

[19] Herbert Kaufman, "Gotham in the Air Age," *in* Stein, ed., *Public Administration and Policy Development—A Case Book* (1952), pp 176-177

* SOURCE California Assembly Interim Committee on Conservation, Planning, and Public Works, *Adapting Government to Metropolitan Needs* (1957), pp 28-33

[1] Bay Area Air Pollution Control District (San Francisco Bay area), Bi-State Development Agency (St Louis area), Chicago Park District, Chicago Transit Authority, County Sanitation Districts of Los Angeles County, Delaware River Port Authority (area in Pennsylvania and New Jersey), East Bay Municipal Utility District (eastern shore of San Francisco Bay), Golden Gate Bridge and Highway District (San Francisco and northern counties), Huron-Clinton Metropolitan Authority (Detroit area), Los Angeles County Flood Control District, Metropolitan District Commission (Hartford County, Connecticut), Metropolitan Sanitary District of Greater Chicago, Metropolitan Water District of Southern California, Omaha Public Power District, Port of New York Authority, Sacramento-Yolo Port District (Sacramento and Yolo Counties, California)

River Port Authority of Pennsylvania and New Jersey includes 10 counties with a population of approximately 4,000,000 and a total area of 4,600 square miles. The Bi-state Development Agency in the St. Louis area has authority to conduct operations in a 3,000-square-mile area in two states, with a population of more than 1,700,000

The Los Angeles County Flood Control District embraces an area of 2,760 square miles and nearly 5,000,000 people, including all of the county except the Mojave Desert areas and the offshore islands. The Huron-Clinton Metropolitan Authority encompasses five counties, including Wayne County (Detroit), and serves a 3,252-square-mile area with a population of well over 3,200,000. The Bay Area Air Pollution Control District covers the nine counties and 75 cities of the San Francisco Bay area, and is presently activated in the six largest of the nine counties, with an aggregate population of approximately 2,800,000 The Chicago Transit Authority operates in the "metropolitan area of Cook County," which includes about three-fourths of the county's area—725 square miles—with a population of about 5,000,000 living in 85 cities and in unincorporated territory. The Metropolitan Sanitary District of Greater Chicago includes a slightly smaller area than the Chicago Transit Authority, serving 4,600,000 people in a 500-square-mile area.

The Metropolitan District Commission, Hartford County, Connecticut, serves the City of Hartford and a number of nearby towns in a 134-square-mile area with a population of 350,000. The Omaha Public Power District takes in 38 municipalities in a 2,500-square-mile area with a population of approximately 420,000. The district covers the entire Omaha metropolitan area, but does not cross the Missouri River and the state line into the Council Bluffs metropolitan area The Sacramento-Yolo Port District includes all of Sacramento County and a portion of Yolo County, with a total area of 1,200 square miles and a population of 400,000

At least three of the districts leave out major portions of the metropolitan areas within which they operate, sharing their authority in each case with one or more other major submetropolitan agencies. The East Bay Municipal Utility District with its dozen cities in two counties and its 1,000,000 people in a 215-square-mile area covers only about one-third of the urban population in the San Francisco Bay area One other major water supply system—San Francisco's Hetch Hetchy—and a number of smaller agencies provide water for the remaining population In a similar manner, the County Sanitation Districts of Los Angeles County operate one of the two major sewage disposal systems which divide the Los Angeles metropolitan area almost equally between them—the other system being maintained by the City of Los Angeles. The districts include a 589-square-mile area with a population of 2,500,000.

The Golden Gate Bridge and Highway District includes the City of San Francisco and major portions of a 350-mile strip of land running north to the Oregon border. This is the area presumed to receive primary benefit from a bridge across the Golden Gate connecting San Francisco directly with the north coast area along US Highway 101 The district includes less than one-third of the San Francisco Bay area's metropolitan population, and it shares the bridge-building function

with the State Department of Public Works, which is responsible for all the other major crossings of San Francisco Bay.

Functions of Districts and Authorities

Of the 16 special districts and authorities represented in this study, 13 are limited in practice to a single major function, which is sometimes supplemented by certain other closely related functions. Of these 13 units, eight either concentrate exclusively on their single major function, or have developed subsidiary and related functions to a very limited extent Five have developed subsidiary and related functions to a considerably greater extent in carrying out their single major purposes Only three districts among the 16 appear to be classifiable as agencies with two or more major functions.

Agencies With a Single Major Function and With Little or No Development of Related or Subsidiary Functions. Eight single-purpose districts or authorities have little or no development of related and subsidiary functions.[2] Functions incidental to the district's single major purpose are occasionally exercised by the agencies in this group. The Golden Gate Bridge and Highway District, for example, is concerned with bridge approaches, as well as with the bridge itself, and has the power to develop a number of other minor functions which are "necessary or proper for the successful prosecution of the project for which the district was organized." The Metropolitan Water District of Southern California is primarily interested in water supply, but also holds a contract for hydroelectric power from Hoover Dam. Such energy is used in connection with the district's pumping operations, and is not purchased for resale or distribution. The County Sanitation Districts of Los Angeles County may sell or dispose of any byproducts of the sewage treatment process. They are also authorized to maintain and operate refuse collection systems, but to date little has been done in the development of this function, partly, it appears, because of defects in the enabling legislation.

The Huron-Clinton Metropolitan Authority is concerned with the accessibility of its recreation areas, and has completed 20 miles of a connecting parkway in the Huron and Clinton River Valleys. The Omaha Public Power District is authorized to perform such other activities "as are necessary for carrying on a fully integrated electric power business." The Metropolitan Sanitary District of Greater Chicago has in practice concentrated its main efforts on its sewage disposal function, although it has also been authorized to undertake activities connected with stream pollution and channel navigation.

Agencies With a Single Major Function and With Extensive Development of Related or Subsidiary Functions Five agencies have developed a wide range of functions related to a single major purpose[3] The Port of New York Authority has had a long and successful career

[2] The County Sanitation Districts of Los Angeles County, the Metropolitan Sanitary District of Greater Chicago, the Metropolitan Water District of Southern California, the Chicago Transit Authority, the Golden Gate Bridge and Highway District, the Huron-Clinton Metropolitan Authority, the Bay Area Air Pollution Control District, and the Omaha Public Power District

[3] The Port of New York Authority, the Delaware River Port Authority, the Sacramento-Yolo Port District the Chicago Park District, and the Los Angeles County Flood Control District

in constructing and operating bridges, tunnels and major highway connections, constructing terminal facilities, promoting port interests, developing and operating major airports, and carrying out an extensive harbor facilities improvement program (wharves, piers, streets and industrial buildings, etc.). The Delaware River Port Authority and the Sacramento-Yolo Port District are relatively new agencies, but have already undertaken several projects in serving their central purpose of developing port facilities and commerce.

The Chicago Park District, in addition to providing for the operation, maintenance and improvement of city parks, also maintains its own police force, and provides for lighting, traffic control, maintenance and improvement of the boulevards under its jurisdiction (a total of 205 miles in 1954). The district has also been authorized since 1955 to construct and operate revenue facilities in connection with motor vehicle parking, and has recently completed a large offstreet parking facility.

The Los Angeles County Flood Control District is empowered to carry out water conservation activities as an interrelated part of its flood control program. At the end of 1955, the district had constructed over 2,300 acres of spreading grounds which have been developed for conservation purposes in conjunction with the controlled discharge of water from district flood control dams.

Agencies With Two or More Major Functions. It is difficult to draw a precise line of distinction between districts which have developed several subsidiary functions related to a single major purpose, and districts which are truly multifunctional. Three agencies, however, appear to be subject to separate classification because they have been granted broad powers over two or more major functions—the East Bay Municipal Utility District, the Metropolitan District Commission, Hartford County, Connecticut, and the Bi-state Development Agency of the St. Louis area. None of these agencies appears to have made full use of its legal powers.

The East Bay Municipal Utility District, now handling the functions of water supply and sewage disposal, was empowered by its enabling legislation to "acquire, construct, own, operate, control or use [illegible] works or parts of works for supplying [illegible] light, water, power, heat, transportation, telephone service, or other means of communication, or means for the disposition of garbage, sewage, or refuse matter." Special District No. 1 was organized in 1944 as an integral part of the East Bay Municipal Utility District to provide for sewage disposal in a portion of the area served by the parent organization. None of the other functions authorized by law have been developed.

The Metropolitan District Commission, Hartford County, Connecticut, which successfully provides for water supply and sewage disposal, also includes regional planning as one of its legal functions. The district keeps in close touch with plans being made by local planning and zoning bodies, primarily for the purpose of providing a reciprocal exchange of information. Occasionally the commission makes recommendations on intertown or areawide problems. With respect to functions not developed, however, the district commission was originally empowered to plan, construct and maintain streets and highways and to provide

garbage removal services The highway function has since been delegated to the state highway department, and the garbage collection function has never been assumed.

The Bi-state Development Agency of the St. Louis area is empowered not only to plan, construct, and operate bridges, tunnels, airports, and terminal facilities within its jurisdiction, but also to submit plans to the communities involved on matters in which their joint or co-ordinated action would be beneficial. These matters include streets, highways, parking areas, terminals, water supply, sewage and drainage, recreation, and land-use planning. The agency has completed an extensive sewer and sanitation survey, a highway survey, and a harbor and wharf survey. It is also working on a preliminary comprehensive plan for the district.

The Selection of District Governing Bodies

There are several ways of choosing the governing boards of metropolitan districts and authorities Appointment by the governors of the participating states is the normal method for interstate districts and authorities. The most popular technique of selection calls for appointment of the directors by the participating local governments included within and served by the district. There are also districts some of whose directors are appointed by one or more local governments, and the remainder by the governor of the state. Finally, some district governing bodies are directly elected.

Appointment by the Governor The governing boards of four districts and authorities are chosen by gubernatorial appointment.[4] Three of the agencies in this group are interstate in scope In the case of the Port of New York Authority, the Bi-state Development Agency (St. Louis), and the Delaware River Port Authority, the two participating states have an equal number of representatives appointed by the governors (there are two ex officio Pennsylvania state officials on the Delaware body) The Delaware River Port Authority compact requires state legislative approval of virtually all projects and plans undertaken by the authority. Similarly, nearly every major project undertaken by the Port of New York Authority has necessitated additional state legislation In addition, the governor of either New York or New Jersey may veto any individual action of a commissioner appointed from his state.

The Metropolitan District Commisison, Hartford County, Connecticut, is also subject to state control, although it is not interstate in area. The 22-member board of commissioners is appoined by the Governor of Connecticut However, provision is made for the voters of the district to petition for the direct election of commissioners

County Appointment or Ex Officio Control. The Los Angeles County Flood Control District is governed by the county board of supervisors, and various county officers also serve as officers of the district. The boards of supervisors of the six counties included in whole or in part within the Golden Gate Bridge and Highway District appoint the district directors, the number from each county depending on its population.

[4] In addition, the governor appoints a minority of the board members of the Chicago Transit Authority and the Huron-Clinton Metropolitan Authority (see p. 95).

Mixed City-County Appointment. The governing boards of the county sanitation districts of Los Angeles County represent a combination of appointments by the county board of supervisors and the mayors of cities within the district. The number of members selected by the mayor(s) and the supervisors depends on the population balance between the unincorporated and incorporated areas within the district.

The governing board of the Bay Area Air Pollution Control District also embodies joint city-county control Each board of supervisors of the six counties within the "activated" portion of the district chooses one of its members to act as a district director for a four-year term.[5] Six directors are chosen by six "city selection committees," one committee being established in each county, and consisting of the mayors of all the cities within the county. Each committee chooses a director for a two-year term from among the mayors and councilmen of the cities within the county.

Two of the five Sacramento-Yolo Port District commissioners are appointed by the board of supervisors of the county in which is located the largest proportion in assessed value of the lands within the district (Sacramento County), and two are appointed by the council of the city having the largest proportion in value of lands within the district (the City of Sacramento). The remaining member is appointed by the board of supervisors of the other county in the district (Yolo County).

Mixed County-Gubernatorial Appointment. In the case of the Huron-Clinton Metropolitan Authority, the boards of supervisors of the five counties included in the district select one commissioner each (for six-year terms), and the state governor appoints two commissioners (for four-year terms).

Mixed City-Gubernatorial Appointment. In the case of the Chicago Transit Authority, four members are appointed by the mayor of Chicago and three by the Governor of Illinois, each being required to secure the approval of the other for his nominees.

City Appointment. The mayor of Chicago appoints the five commissioners of the Chicago Park District, which is coterminous with the city

Appointment by Member Cities and Districts. The 37 directors of the Metropolitan Water District of Southern California are appointed by the participating municipalities and local water districts. Each member agency is entitled to at least one representative on the board, and may also have an additional representative for each $500,000,000 of assessed valuation Every participating unit has one vote for each $10,000,000 of assessed valuation, and no one member agency is permitted to have more than one-half the total number of votes. The representatives of each unit vote as a block after a majority decision of the delegation is reached.

Direct Election Three agencies have directly elected governing boards. Directors of the Metropolitan Sanitary District of Greater Chicago are elected at large. In the East Bay Municipal Utility District

[5] The Bay Area Air Pollution Control District includes the nine counties of the San Francisco Bay area At present, however, the district has been activated in only six of the nine counties (San Francisco, Alameda, Contra Costa, San Mateo, Marin, and Santa Clara)

the directors are nominated from wards within the district but are voted upon at large. The Omaha Public Power District elects its directors from subdivisions within the district.

The Financing of Districts and Authorities

Districts and authorities may be classified into three groups, according to the scope of their fiscal authority. First are the agencies which may obtain revenues from both property taxation and service charges. Second come those which must rely on service charges, not being empowered to employ the property tax. Third are the districts which must depend primarily on property taxation. Districts and authorities in all three categories normally may accept aids and subventions from other governments when offered.

Agencies Authorized to Employ Both Property Taxation and Service Charges. Ten districts included in this survey are authorized to utilize both property taxation and service charges as sources for operating revenue.[6] Actual practice, however, varies greatly. The Golden Gate Bridge and Highway District derives practically all its revenue from bridge tolls. The Metropolitan District Commission, Hartford County, Connecticut, and the East Bay Municipal Utility District derive a major portion of their operating revenues from service charges, but also rely on the property tax to a degree. The seven remaining agencies, on the other hand, appear to rely primarily on property taxation, and utilize service charges only to a limited extent. The Los Angeles County Flood Control District also receives a substantial proportion of its revenues in the form of subventions from other governments.

Among these 10 districts authorized to use both service charges and property taxation to raise operating revenues, two are restricted to revenue bonds for financing purposes— the Huron-Clinton Metropolitan Authority and the Golden Gate Bridge and Highway District.

Six of the 10 districts are restricted to general obligation bonds in their financing powers. These include the Metropolitan Water District of Southern California, the Sacramento-Yolo Port District, the Los Angeles County Flood Control District, the East Bay Municipal Utility District, the Metropolitan District Commission of Hartford County, and the Chicago Park District.

Only two of the agencies have been authorized to issue both revenue and general obligation bonds—the County Sanitation Districts of Los Angeles County, and the Metropolitan Sanitary District of Greater Chicago The latter may issue revenue bonds to finance improvements in specific localities within the district, payable from the area so serviced. The Chicago district has also been authorized to obtain construction funds by levying a property tax for construction purposes amounting to 10 million dollars annually for the years 1955-1959, inclusive.

Agencies Which Must Rely on Service Charges. Five of the 16 districts and authorities surveyed have no power to levy a property tax.

[6] Chicago Park District, County Sanitation District of Los Angeles County, East Bay Municipal Utility District, Golden Gate Bridge and Highway District, Huron-Clinton Metropolitan Authority, Los Angeles County Flood Control District, Metropolitan District Commission, Hartford County, Connecticut, Metropolitan Sanitary District of Greater Chicago, Metropolitan Water District of Southern California, and Sacramento-Yolo Port District.

Of these, four now rely primarily on service charges (fees, rentals, tolls, fares, etc.) for their operating revenue.[7] The fifth, the Bi-State Development Agency of the St. Louis area, has depended largely on state subventions during its formative period, but will apparently rely primarily on service charges when in full operation.

All five of these units are limited to revenue bonds for long-term financing.

Agencies Limited to Property Taxation. One district is, for all practical purposes, limited to property taxation for its revenue—the Bay Area Air Pollution Control District. The district's budget is allocated among the six counties presently participating, each county thus contributing to the district through property taxation. The district may also receive income from fees charged for violations of its regulations, but this additional source is of doubtful significance. The district's enabling legislation does not provide for bond issues other than for short-term (current year) indebtedness in anticipation of tax revenues.

Special Assessments. Six districts have some kind of authority to levy special assessments in areas benefited by particular improvements. Included are: the Chicago Park District, the County Sanitation Districts of Los Angeles County, the East Bay Municipal Utility District (through its subsidiary, Special District No. 1), the Los Angeles County Flood Control District, the Metropolitan District Commission of Hartford County, Connecticut, and the Metropolitan Sanitary District of Greater Chicago.

The 10 remaining districts and authorities included in this survey appear to make no provision for special assessments.

APPENDIX B

TABLE 1

Voting Power Distribution Among County Areas According to Population or Assessed Valuation

County area	*Column 1* *Population (1958 estimate)*	*Column 2* *Percent distribution of voting power if based on population*	*Column 3* *Assessed valuation (1957)*	*Column 4* *Percent distribution of voting power if based on assessed valuation*
Alameda	886,800	25.39	$1,244,558,000	23.12
Contra Costa	370,400	10.60	703,930,000	13.08
Marin	136,800	3.92	177,158,000	3.29
Napa	63,500	1.82	68,389,000	1.27
San Francisco	791,100	22.65	1,339,859,000	24.89
San Mateo	399,100	11.43	631,328,000	11.73
Santa Clara	574,800	16.46	854,691,000	15.88
Solano	125,500	3.59	152,357,000	2.83
Sonoma	144,700	4.14	211,400,000	3.93
Total	3,492,700	100.00	$5,383,670,000	100.00

[7] Chicago Transit Authority, Delaware River Port Authority, Omaha Public Power District, and Port of New York Authority.

TABLE 2

Voting Power Distributed One-half According to Population and One-half Equally Among the County Areas *

County area	Column 1 144 votes distributed in proportion to population	Column 2 144 votes distributed equally among the county areas	Column 3 Total votes assigned to each board member	Column 4 Total votes assigned to the two board members from each county	Column 5 Percent distribution of voting power
Alameda	36	16	52	104	18.06
Contra Costa	15	16	31	62	10.76
Marin	6	16	22	44	7.64
Napa	3	16	19	38	6.60
San Francisco	33	16	19	38	17.01
San Mateo	16	16	32	64	11.11
Santa Clara	24	16	40	80	13.89
Solano	5	16	21	42	7.29
Sonoma	6	16	22	44	7.64
Total	144	144	288	576	100.00

* The number of votes assigned to each board member is determined by apportioning 144 votes among the nine counties according to population, and an additional 144 votes equally among the counties (16 to each county area). The number 144 is used because it is large enough to minimize the problem of fractional votes, and because it is divisible by 9.

TABLE 3

Voting Power Distribution According to Several Different Formulas

County area	Percent distribution according to Population (from Table 1)	Assessed valuation (from Table 1)	One-half by population and one-half equally among county areas (from Table 2)	Regional Planning District as proposed by study group in 1956-57	Equal Distribution Bay Area Air Pollution Control District
Alameda	25.4	23.1	18.1	15.4	11.1
Contra Costa	10.6	13.1	10.8	7.7	11.1
Marin	3.9	3.3	7.6	3.8	11.1
Napa	1.8	1.3	6.6	3.8	11.1
San Francisco	22.7	24.9	17.0	15.4	11.1
San Mateo	11.4	11.7	11.1	7.7	11.1
Santa Clara	16.5	15.9	13.9	7.7	11.1
Solano	3.6	2.8	7.3	3.8	11.1
Sonoma	4.1	3.9	7.6	3.8	11.1
Directors-at-Large (Bay Area Regional Planning District Proposal)	---	---	---	30.8	---

TABLE 4

Voting Power Distribution: San Francisco Bay Area Rapid Transit District

	Population	*Percent distribution*	*Number of directors*	*Percent voting power distribution*
Alameda	886,800	34.32	4	25.0
San Francisco	791,100	30.61	4	25.0
San Mateo	399,100	15.44	3	18.8
Contra Costa	370,400	14.33	3	18.8
Marin	136,800	5.29	2	12.5
Total	2,584,000	100.00	16	100.0

TABLE 5

Distribution of Population, Assessed Valuation and Metropolitan Council Voting Power Among the 13 Toronto Municipalities

Municipality	*Population*	*Percent distribution of population*	*Assessed valuation (1957)*	*Percent distribution of assessed valuation*	*Distribution of voting power in metropolitan council*
City of Toronto	662,096	49.1	$1,637,578,000	53.5	50.0
Township of North York	168,612	12.5	371,808,000	12.1	4.2
Township of Scarborough	139,083	10.3	251,489,000	8.2	4.2
Township of York	116,777	8.7	186,037,000	6.1	4.2
Township of Etobicoke	103,146	7.7	280,130,000	9.2	4.2
Township of East York	69,353	5.1	104,659,000	3.4	4.2
Village of Forest Hill	19,041	1.4	58,190,000	2.0	4.2
Town of Leaside	16,458	1.2	60,868,000	2.0	4.2
Town of Mimico	13,608	1.0	22,622,000	0.7	4.2
Town of New Toronto	11,505	0.9	35,141,000	1.1	4.2
Village of Long Branch	10,207	0.8	15,430,000	0.5	4.2
Town of Weston	9,455	0.7	19,781,000	0.6	4.2
Village of Swansea	8,564	0.6	19,164,000	0.6	4.2
Total	1,347,905	100.0	$3,062,897,000	100.0	100.0

APPENDIX VIII

ANALYSIS OF THE PROPOSED METROPOLITAN MULTIPURPOSE DISTRICT ACT—NO. 5083

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, February 5, 1959

HON. THOMAS M. REES
Assembly Chamber

DEAR MR. REES: The act declares the policy of the State in regard to the interest of the people in such districts. It further declares the findings of the Legislature in regard to the need for such multipurpose districts (Sections 1 and 2).

The act defines certain terms used in the act (Sections 4 to 11, inclusive).

The act specifies that one or more entire counties may form a district and provides a procedure for establishing such a district (Sections 15 to 25, inclusive).

The act provides for a City Selection Committee for each county, the membership of the committee, and the duties of the committee (Sections 30 to 35, inclusive).

The act provides that each district shall have a governing body called the Metropolitan Council. It provides for the establishment of the council, including the selection of its members and their term of office. It specifies that the council shall exercise all of the powers of the district, except as otherwise provided. It makes provision for the administration of business by the council (Sections 40 to 58, inclusive).

The act authorizes a district to perform any or all of the following functions:

(1) Planning and zoning—to develop a comprehensive, long term general plan for the physical development of the district (Sections 61 to 66, inclusive) (These sections are based upon the District Planning Law, Sections 66241, 66242, 66280, and 66290 of the Government Code.)

(2) Air pollution control—to provide air pollution control, establish and execute an effective program for the reduction of air contaminants within the district (Sections 67 to 74, inclusive). (These sections are based upon the Bay Area Pollution Act. Sections 24360.7, 24362, and 24362.3 to 24362.5, inclusive.)

(3) Water supply—to develop, store and distribute water for domestic services (Sections 75 to 77, inclusive). (These sections are based upon Section 3 and Section 5 (10) of the Metropolitan Water District Act.)

(4) Sewage disposal—to prepare, develop, and operate a comprehensive sewage disposal and storm water drainage system for the district (Section 78) (This section is based upon Section 20 of the Metropolitan Municipal Corporations Act, Chapter 213, Laws of Washington, 1957.)

(5) Public transportation—to prepare, develop, and operate a system of public transportation (Section 79). (This section is based upon Section 24 of the Washington Metropolitan Municipal Corporations Act.)

(6) Parks and parkways—to plan, adopt, lay out, plant, and otherwise improve, extend, control, operate, and maintain a system of public parks, playgrounds, beaches, parkways, scenic drives, boulevards, and other facilities for public recreation (Section 80). (This section is based on Section 5541 of the Regional Park Districts Law, Public Resources Code.)

(7) Law enforcement—to protect and safeguard life and property (Sections 81 to 84, inclusive). (These sections are based upon the Police Protection Districts Law, Sections 20025, 20071, 20071.5, and 20072 of the Health and Safety Code.)

(8) Fire protection—to establish a fire department for the protection of life and property in the district from fire (Section 85). (This section is based upon the Fire Protection Districts Law, Sections 14092, 14093, 14094, and 14106 of the Health and Safety Code.)

(9) Civil defense—to provide civil defense to the extent that it is not inconsistent with the California Disaster Act, Chapter 1 of Division 7 of the Military and Veterans' Code (Section 86).

(10) Any other areawide service, when delegated as provided in the act (Section 60).

The act grants general powers and duties to the district similar to those possessed by a municipal corporation (Sections 87 and 88).

The act specifies that the council of each district shall appoint a metropolitan manager who shall be the chief administrative officer of the district and technical adviser to the council. It specifies the powers and duties of the manager (Sections 110 to 112, inclusive).

The act authorizes the district to incur indebtedness, to levy an ad valorem tax, issue general obligation bonds and revenue bonds. The district is also authorized to establish special assessment and improvement districts within the multipurpose district (Sections 115 to 129, inclusive).

The act authorizes the district to modify its boundaries by allowing any contiguous county to become a part of the district.

The act provides a procedure whereby a multipurpose district may be dissolved (Sections 135 to 138, inclusive).

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By: RICHARD T. WILSDON, Deputy Legislative Counsel

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ASSEMBLY INTERIM COMMITTEE REPORTS

1957-1959

VOLUME 13 NUMBER 25

REPORT OF THE SUBCOMMITTEE ON BAY AND WATER POLLUTION

A Subcommittee of the

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 215, 1957
House Resolution No. 297, 1957

Report Prepared by

PACIFIC PLANNING AND RESEARCH
JAN STEVENS, *Legislative Intern*
SAMUEL E. WOOD

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March, 1959

Published by the

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OF THE STATE OF CALIFORNIA

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COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
SACRAMENTO, March 1, 1959

HON. RALPH M. BROWN,
Speaker of the Assembly,
Members of the Assembly,
Assembly Chamber, Sacramento

This report of the Subcommittee on Bay and Water Pollution, prepared in accordance with House Resolution Nos. 215 and 297, 1957, comes at a time of accelerated population growth and resulting problems of water quality. These problems can be expected to increase with growth in the absence of passage of this legislation. The active service of the Regional and State Water Pollution Control Boards and the departmental directors, serving ex officio on this board, in the work of the subcommittee, is evidence of official state recognition of the importance of immediate action.

It is my belief that action taken now will save the State and its political subdivisions great expenditures of money and assist private enterprise by clearer definitions of standards and controls, both on the amount of pollution discharge and on appropriate location of discharge plants. Unquestionably, the lack of clarity in present legislation is a factor not conducive to sound industrial development of the State. I earnestly recommend that both houses of the Legislature pass the legislation submitted herewith as a guarantee to the future health and welfare of the State.

Respectfully submitted,
THOMAS M. REES, Vice Chairman
Assembly Interim Committee on
Conservation, Planning, and Public Works

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, March 1, 1959

HON. THOMAS M. REES, *Vice Chairman*
Conservation, Planning, and Public Works
California State Assembly, Sacramento

DEAR SIR: Extensive hearings were held by your subcommittee on the problems of water pollution in the State of California. As the committee work progressed, it became apparent that the focal point of practically all comments was a series of recommendations for revision on

the Water Pollution Control Act which had been prepared by a committee consisting of five state department heads who are ex officio members of the State Water Pollution Control Board at approximately the same time the committee was provided with joint recommendations by the State Water Pollution Control Board and the Regional Water Pollution Control Boards. These two reports were the result of requests by your subcommittee at an executive programing meeting following the close of the 1957 Legislature.

The last hearing in San Francisco resulted in testimony being directed primarily to the recommendations of the five-man committee because their report had been sent by your committee to all agencies and industrial organizations with the request that review comments be prepared and submitted at a subsequent meeting of the subcommittee. The testimony submitted at the San Francisco hearing on December 19, 1958, consequently, was related to the proposals submitted by the state departmental committee and the discussions centered around committee recommendations. Few substantive proposals were made beyond the recommendations of the five-man committee.

Your subcommittee, consequently, has prepared legislation basically in accord with these recommendations which have as their purpose the strengthening of the act in two ways: first, by a declaration of State legislative policy including a clear provision that the disposal of waste to the waters of the State is a privilege, not a right, and second, placing the responsibility on the State Water Pollution Control Board to establish policy sufficiently detailed in accordance with these goals to provide direction to the regional boards in their enforcement of the act. Other sections would strengthen the enforcement powers of the regional boards. In addition to clarifying amendments to the act, this legislation will increase the membership of the regional boards through the addition of two members, one representing recreation and wildlife and the other representing the public at large.

The success of the hearings of this subcommittee and its working relationship both to private organizations and public agencies throughout the State is the result largely of the programing of the Staff Assistant, James T. Williams, and Charles Kunsman, Legislative Intern. The summary and comparison of the many proposals both public and private for changes in existing legislation which resulted in the subcommittee decisions for amendments to the act were prepared by Jan Stevens, Legislative Intern, assigned to the subcommittee.

Respectfully submitted,

CHARLES W. MEYERS, Chairman

FRANK P. BELOTTI
WILLIAM BIDDICK
DON A. ALLEN, SR.*

WILLIAM A. MUNNELL
EUGENE G. NISBET
BRUCE SUMNER

* I decline to sign the report because it is based on the recommendations of the five department heads. No attention was given to the testimony and recommendations given by other expert witnesses

DON A. ALLEN, SR.

FINDINGS

A. While the regional approach to water pollution control is basically sound and should be retained, experience with the act during the past nine years in the face of increasing population growth and industrial development indicates that the act should be strengthened to meet current and anticipated problems.

B. Specifically, the subcommittee finds that the effectiveness of the Water Pollution Control Act suffers because of the existence of four major problem areas:

(1) Lack of a sufficiently clear and detailed state policy toward water pollution;

(2) Confusion as to the working relationship and jurisdictions of the regional boards and the State Water Pollution Control Board;

(3) Inadequate representation of the interests of the general public and of recreation on the regional boards; and

(4) Lack of a sufficiently clear, responsible and efficient enforcement procedure for water pollution control.

C. These problems can be expected to increase rather than diminish under the impact of urbanization. Action now is only fair to developing California communities and the industrial and commercial enterprises now seeking guidance on disposal requirements and on appropriate location.

RECOMMENDATIONS

The additions and amendments to the Water Pollution Control Act, submitted with this report should be adopted.

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1974

Introduced by Messrs. Meyers, Biddick, Don A. Allen, Belotti, Munnell, Nisbet, and Sumner

(By request of Subcommittee on Bay and Water Pollution of the Assembly Interim Committee on Conservation, Planning, and Public Works)

March 11, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to amend Sections 13002, 13022, 13025, 13041, 13042, 13052, 13054, 13055, and 13060 of, to add Sections 13000.1, 13000.2, 13000.3, 13000.4, 13020.1, 13022.1, 13026, 13052.1, 13054.1, 13054.2, 13054.3, 13054.4, 13054.5, 13054.6, 13054.7, 13054.8, 13055.1, 13055.2, 13065 to, and to add Article 4 (commencing at Section 13080) to Chapter 4 of Division 7 of, the Water Code, and to add Section 5652 to the Fish and Game Code, relating to water pollution.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13000.1 is added to the Water Code,
2 to read:
3 13000.1 In conformity with Section 3 of Article XIV of
4 the Constitution of the State and with Section 100, which
5 require that the water resources of the State be put to bene-
6 ficial use to the fullest extent of which they are capable and
7 that the waste or unreasonable use or unreasonable method
8 of use of water be prevented, the Legislature finds and de-
9 clares, that the people of the State have a primary interest

LEGISLATIVE COUNSEL'S DIGEST

A B 1974 as introduced, Meyers (N. R., P, & P. W.). Water pollution.

Amends and adds various sections, and articles, Wat. C. and F. & G. C.

Extends basic policy statement relative to water pollution and expands and defines powers of State Water Pollution Control Board and regional water pollution control boards Adds two members to each regional board. Authorizes the boards to revise requirements. Authorizes state board to review actions and orders of regional boards. Provides for summary abatement of conditions of pollution or nuisance. Permits enforcement of certain prohibitions relative to water pollution by the Department of Fish and Game, if the regional water pollution control boards have not established appropriate requirements

in the control and conservation of the water resources of the State and the prevention of damage thereto by unreasonable use; that such damage is detrimental to the peace, health, safety and welfare of the people of the State, and that the full beneficial use of water resources of the State and the prevention of damage thereto by unreasonable use are proper functions and activities of the State.

SEC. 2. Section 13000.2 is added to said code, to read:

13000.2. The Legislature finds and declares that, because of the widespread demand and need for the full utilization of the water resources of the State for numerous beneficial uses, including domestic, municipal, irrigation, industrial, generation of electric energy, preservation and enhancement of fish and wildlife resources, and for recreation and other beneficial uses, it is the policy of the State that the disposal of wastes into the waters of the State shall be so regulated as to achieve highest water quality consistent with maximum benefit to the people of the State.

SEC. 3. Section 13000.3 is added to said code, to read:

13000.3. The Legislature further finds and declares that because of the need and demand for the maximum utilization of the water resources of the State, it is the policy of the State that the disposal of wastes into the waters of the State is a privilege, not a right, and such disposal shall be controlled so as to promote the peace, health, safety and welfare of the people of the State.

SEC. 4. Section 13000.4 is added to said code, to read:

13000.4. The Legislature finds and declares that, while problems of pollution are primarily regional in character, problems of quality control increasingly are becoming a matter of statewide interest and concern, and statewide policies are necessary to insure adequate quality to meet the present and future requirements for all beneficial uses of the waters of the State.

SEC. 5. Section 13002 of said code is amended to read:

13002. No provision of this division shall be construed as affecting the right of any person to the use of water for any beneficial use other than the use for disposal of sewage and industrial wastes. *No disposal of waste into the waters of the State shall preclude future use of such waters for other purposes, nor shall the state board or any regional board, by prescribing requirements, be precluded thereafter from prescribing higher quality requirements relative to the same disposal area or receiving waters. A discharge pursuant to prescribed requirements shall not create a vested right to continue such discharge under those same requirements.*

SEC. 6. Section 13020.1 is added to said code, to read:

13020.1. The state board shall publish biennial progress reports relating to the activities of the state and regional boards.

SEC. 7. Section 13022 of said code is amended to read:

13022. The state board shall formulate *and adopt* a statewide policy for control of water pollution with due regard for the authority of the regional boards. *Such policy shall be sufficiently detailed to provide adequate quality standards in conformity with the policies set forth in Chapter 1 (commencing at Section 13000).*

SEC. 8. Section 13022.1 is added to said code, to read:

13022.1. In formulating a statewide policy pursuant to Section 13022, the state board shall take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements and additions thereto as may be made from time to time.

SEC. 9. Section 13025 of said code is amended to read:

13025 Whenever a regional board fails to take or obtain appropriate action to correct any particular existing or threatened condition of pollution or nuisance, the state board shall direct that action to correct the condition be taken by any state agency having jurisdiction or may, itself, take such action.

In taking any such action the state board is vested with the powers granted to the regional boards in Sections 13053, 13054, *13054.1, 13054.2, 13054.3, 13054.4, 13054.6, 13054.8* ~~and~~ 13055, *13055.2* and Article 3 *(commencing at Section 13060) and Article 4 (commencing at Section 13080)*, *of* Chapter 4, ~~of this division,~~ and the state board shall follow the procedures set forth therein.

The state board upon finding that a contamination exists and is not being corrected, shall ~~direct that action be taken by any state agency having jurisdiction~~ *refer the condition to the State Department of Public Health for action*.

SEC. 10. Section 13026 is added to said code, to read:

13026 Upon the petition of any interested person, or upon its own motion, the state board may undertake an original consideration of any action or order of a regional board relative to discharge requirements or relative to the correction of any existing or threatened condition of pollution or nuisance. On review, the decision and order of the state board relative to that proceeding shall be binding upon all persons and upon the regional board and shall supersede any conflicting order relative to the same proceeding previously issued by the regional board. An order of the regional board shall not be stayed pending review by the state board. The powers conferred by this section are in addition to, and shall not be construed as a limitation upon, the powers conferred by Section 13025.

SEC. 11. Section 13041 of said code is amended to read:

13041. A regional board, consisting of the following members shall be appointed by the Governor for each of the regions described in Section 13040:

(a) One person associated with organizations dealing with water supply, conservation, or production;

(b) One person associated with irrigated agriculture who is an owner or manager of a farm in the region;

(c) One person selected from persons acting in an executive or administrative capacity in industries producing industrial waste in the region;

(d) One person associated with the municipalities in the region;

(e) One person associated with the counties in the region ~~.~~ ;

(f) One person associated with both recreation and wildlife;

(g) One person not specifically associated with any of the foregoing interests representing the public at large

SEC. 11.5. Section 13042 of said code is amended to read:

13042. Of the members originally appointed to each regional board, two members shall be appointed for a term of two years commencing on the effective date of this act; two members shall be appointed for a term of three years commencing on the effective date of this act; and one member shall be appointed for a term of four years commencing on the effective date of this act. Thereafter all members shall be appointed for a term of four years. Vacancies shall be immediately filled by the Governor for the unexpired portion of the terms in which they occur.

The two new members added to each regional board by the amendment made to Section 13041 by the Legislature at the 1959 Regular Session shall be appointed for a term of three years commencing on the effective date of that amendment Thereafter they shall be appointed for a term of four years

SEC. 12. Section 13052 of said code is amended to read:

13052. Each regional board, with respect to its region, shall:

(a) Obtain co-ordinated action in the abatement, prevention and control of water pollution and nuisance by means of formal or informal meetings of the persons involved;

(b) Encourage and assist in self-policing waste disposal programs for industry, and upon application of any person shall advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged;

(c) Require any state or local agency to inspect and report on any technical factors involved in water pollution or nuisance;

(d) Request enforcement of laws concerning water pollution or nuisance by appropriate federal, state and local agencies;

(e) Formulate and adopt long-range plans and policies with respect to water pollution control within the region *in*

accordance with the legislative policy set forth in Chapter 1 (commencing at Section 13000) and the statewide policies prescribed by the state board;

(f) Recommend to the state board projects for the reduction of water pollution which the regional board considers eligible for any financial assistance which may be available through the state board;

(g) Report to the state board and appropriate local health officer any case of contamination in its region which is not being corrected.

(h) File with the state board, at its request, copies of any official action with respect to any particular case of actual or threatened pollution.

(i) Have the power to require any state or local agency to obtain and submit analyses of well water.

SEC. 13. Section 13052.1 is added to said code, to read:

13052.1. The regional boards, in formulating policies and prescribing requirements, shall take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements, and additions thereto as may be made from time to time.

SEC. 14. Section 13054 of said code is amended to read:

13054. Any person proposing to discharge sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of such proposed discharge. *Upon the request of the regional board, any person presently discharging sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of such discharge.* The reporting of a discharge of sewage from family dwellings in any area may be waived by the regional board. The regional board, after any necessary hearing, shall prescribe requirements as to the nature of such *proposed or existing* discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is *made or* proposed and notify the person *making or* proposing the discharge of its action. Such requirements may be revised from time to time. After receipt of such notice, the person so notified shall provide adequate facilities to meet any such requirements with respect to the discharge of sewage and industrial waste.

SEC. 15. Section 13054.1 is added to said code, to read:

13054.1. Any person discharging sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of any material change or proposed change in the character, location or volume of the discharge. The regional board, after any necessary hearing, shall prescribe requirements or revised requirements as to the nature of such discharge with relation from to the conditions existing from time to time in

the disposal area or receiving waters upon or into which the discharge is made or proposed and notify the person making or proposing the discharge of its action Such requirements may be revised from time to time. After receipt of such notice, the person so notified shall provide adequate facilities to meet any such requirements or revised requirements with respect to the discharge of sewage and industrial waste

SEC. 16. Section 13054.2 is added to said code, to read:

13054 2. A regional board, in prescribing requirements, may incorporate therein adequate margins of safety in order to avoid possible detrimental effects not subject to initial direct evaluation. In establishing such margins of safety, consideration may be given, but is not limited, to such factors as (1) threats to the public health and safety that might result from operational breakdowns or other unpredictable occurrences, and (2) adverse effects upon the preservation, enhancement, and propagation of fish and wildlife caused by impairment of the habitat.

SEC. 17. Section 13054.3 is added to said code, to read:

13054.3. Each regional board, within its region, may specify certain conditions and locations where no direct discharge of sewage or industrial waste will be permitted

SEC 18. Section 13054 4 is added to said code, to read·

13054.4. Each regional board within its region may require a discharge of, or a person proposing to discharge, sewage or industrial waste within the region to show the necessity for discharging at a specified location, and may prohibit the discharge at such location if necessity is not established

SEC. 19. Section 13054.5 is added to said code, to read:

13054.5. Any person failing to file a report, upon request of a regional or state board, as required in Sections 13054 or 13054.1 is guilty of a misdemeanor. Each day of discharge of sewage or industrial waste within a region without compliance with the reporting requirements shall constitute a separate offense.

SEC. 20. Section 13054.6 is added to said code, to read:

13054.6. Upon failure of any person or persons to file a report as required by Sections 13054 and 13054.1 a regional board may certify the facts to the district attorney for the county in which the discharge or proposed discharge does or will occur, and the district attorney shall petition the superior court in and for that county for the issuance of an injunction requiring such person or persons to file the required report and restraining such person or persons from discharging sewage or industrial waste within the region until the required report has been filed. In any such suit, the court shall have jurisdiction to grant, without requiring bond or other undertaking, such prohibitory and mandatory injunction, either preliminary or final, as the facts may warrant.

SEC. 21. Section 13054.7 is added to said code, to read:

13054.7. Any person discharging sewage or industrial waste in violation of the requirements prescribed pursuant to

Sections 13053, 13054, and 13054.1, is guilty of a misdemeanor. Each day's violation shall constitute a separate offense.

SEC. 22. Section 13054.8 is added to said code, to read:

13054.8. Upon failure of any person or persons to comply with any requirements prescribed pursuant to Sections 13053, 13054, or 13054.1, the board issuing the order may certify the facts to the district attorney for the county in which the discharge occurs, whereupon such district attorney shall petition the superior court in and for the county for the issuance of an injunction restraining such person or persons from discharging sewage or industrial waste in violation of the prescribed requirements. In any such suit, the court shall have jurisdiction to grant, without requiring bond or other undertaking, such prohibitory and mandatory injunction, either preliminary or final as the facts may warrant.

SEC. 23. Section 13055 of said code is amended to read:

13055. A regional board may investigate any source of water pollution or nuisance within its region and may require that any person ~~responsible for meeting prescribed requirements~~ *discharging sewage or industrial waste within the region* furnish such technical reports as the board may specify.

SEC. 24. Section 13055.1 is added to said code, to read:

13055.1. Any person failing or refusing to furnish technical reports as required by Section 13055 is guilty of a misdemeanor.

SEC. 25. Section 13055.2 is added to said code, to read:

13055.2. Upon failure of any person or persons to furnish any technical report required pursuant to Section 13055, the regional board may certify the facts to the district attorney for the county in which the discharge occurs, whereupon such district attorney shall petition the superior court in and for that county for the issuance of a mandatory injunction requiring such person or persons to furnish the technical reports, or a prohibitory injunction restraining such person or persons from discharging sewage or industrial waste until such technical reports have been furnished.

SEC. 26. Section 13060 of said code is amended to read:

13060. When it appears to a regional board that the discharge of sewage or industrial waste within its region is taking place contrary to any requirements prescribed by the regional board under the provisions of Sections 13053, 13054, *13054.1* and 13055, the board ~~shall~~ *may* order a hearing on the matter and *shall* serve notice thereof by registered mail, not less than 10 days prior to the hearing on all persons alleged to be creating the condition.

SEC. 27. Section 13065 is added to said code, to read:

13065. The remedies provided by this article shall not be deemed to be exclusive.

SEC. 28. Article 4 (commencing at Section 13080) is added to Chapter 4 of Division 7 of said code, to read:

Article 4. Summary Abatement

13080. A civil action may be brought in the name of the people of the State of California to abate a pollution or nuisance which is transitory in nature or is of short duration but periodic in occurrence by the district attorney of any county in which such pollution or nuisance occurs, and such district attorney must bring such action whenever requested by the regional board of the region in which such pollution or nuisance occurs. The superior court shall have jurisdiction to order abatement of the pollution or nuisance in the same manner as a public nuisance may be abated.

SEC 29. Section 5652 is added to the Fish and Game Code, to read:

5652 The department may enforce the provisions of Section 5650, by appropriate action, until such time as the appropriate regional water pollution control board has established requirements, for the discharge of sewage or industrial waste at a particular point of discharge, in accordance with Article 2 (commencing at Section 13050) of Chapter 4 of Division 7 of the Water Code

FULL REPORT

INTRODUCTION

The recommendations submitted with this report represent the product of two years of study given by the subcommittee to the problems of bay and water pollution in California In the course of this study, hearings were held November 4 and 5, 1957, in San Francisco, July 1-2, 1958, in Newport Beach, September 23, 1958, San Francisco, and again in San Francisco on December 19, 1958. In addition to this heavy program of public hearings, a full day of executive session with major responsible agencies was held in Sacramento and a field trip by the subcommittee was made to study the problems of Candlestick Cove, South San Francisco. Representatives from industry, sportsmen, scientists, officials from the state and regional water pollution control boards, public officials and the heads of the five state departments represented on the State Water Pollution Control Board helped the subcommittee to consider the problems of pollution control from the points of view of everyone concerned.

The subcommittee's object of study was the operation of the Dickey Water Pollution Act (Water Code Sections 13000–13105), legislation by which the 1949 Legislature introduced a unique approach to the problem of water pollution control. The act places in nine regional boards whose jurisdiction roughly approximates the major drainage areas of California the power to establish and enforce local policies for pollution control Prevention is the key to the act's operation. Each regional board is required to establish permissible standards for each discharger of industrial waste or sewage within the region.

Although this regional approach has proven basically sound, the subcommittee found that problems had arisen in the operation of the act since its adoption in 1949. These problems were fully reviewed at hearings and conferences Two major reports were prepared at the request of the subcommittee covering the problems and proposed solutions. The first report came as a joint statement of the state board and regional water pollution control boards after several months of conferences and consolidated effort.[1] The state board suggested that the five departmental directors (Agriculture, Fish and Game, Natural Resources, Public Health, and Water Resources), serving ex officio on the board, constitute a special task force to prepare a separate report. The recommendations of this report were submitted for the consideration of the state and regional boards during their study and prior to the release of their report. Following the release of this report and study of its contents, the departmental committee submitted its own report to the subcommittee.[2] This report, sent by the subcommittee to all known in-

[1] *Joint Statement of the State and Regional Water Pollution Control Boards to the Subcommittee on Bay and Water Pollution, Assembly Interim Committee on Conservation, Planning and Public Works*, April 2, 1958, see Appendix A, p 23

[2] W C Jacobsen (Agriculture), Seth Gordon (Fish and Game), DeWitt Nelson (Natural Resources), and Malcolm H Merrill (Public Health), *Recommendations for Water Pollution Control Legislation*, May 21, 1958 see Appendix B, p 91

terested public agencies and private organizations and individuals, became the basis for the San Francisco hearing December 19, 1958. While some testimony indicated doubt as to all the recommendations of the five departmental directors, no important additional changes in existing legislation were recommended. Following a summary and comparison of the recommendations of both reports and the testimony of all agencies and organizations,[3] the subcommittee met in conference with a representative of the Legislative Counsel and agreed on the amendments and additions to the original act, submitted with this report.[4] These changes are in basic conformity with the recommendations of departmental directors whose full report is submitted with this document as substantiating material.

STATE POLICY CLARIFICATION

State policy regarding the protection and conservation of water resources must be clarified.

While the subcommittee endorses the basic policy of regional control, it recognizes a growing need for statewide policies expressed in terms more specific than those presently used. As water resources are developed to the point where large quantities of water are transported from one area to another, regional boards will have to consider not only local standards but the possible effect of the reuse of water as it is brought to other parts of the State. Water as a source of recreation is becoming increasingly more important to all the people of the State without regard to locality. Pressures for increasing industrial and sewage uses at minimum cost will increasingly compete with the needs of domestic users, farmers, fishermen and vacationers. At present there is no legislative requirement that regional boards act within the framework of state board policy. In the belief that such a requirement is a necessity to the orderly development of our water resources, the subcommittee has proposed amendments that would require the state board to establish statewide policies sufficiently detailed to provide an adequate general guide for regional boards.

General policies will be useless unless the planning of other state agencies is taken into account. Accordingly, the proposed legislation would require state and regional boards alike to recognize the California Water Plan and any other state plan for the development, utilization and conservation of water resources in establishing their policies.

Clarifying amendments would establish that the discharge of wastes is a privilege, not a right. Similarly, the power of the regional boards to raise water quality standards in the public interest is affirmed.

RELATIONSHIPS OF REGIONAL BOARDS TO THE STATE BOARD

Confusion as to the working relationship and jurisdictions of the regional boards and the State Water Pollution Control Board must be dispelled.

(A) At present, the state board has neither the duty nor the power to establish general statewide policies that local regional boards are bound to respect. This failure could have serious effects in view of the increasing importance of each region's water quality to the rest of the

[3] See Jan Stevens, *Summary and Comparison of Recommendations for Changes in Water Pollution Control Legislation*, Appendix C, p. 109

[4] See Legislative Counsel, *Analysis of Proposed Bill Relative to Water Pollution*, Appendix D, p. 117.

State. The subcommittee therefore proposes amendments making the State Water Pollution Control Board responsible for establishing such standards and requiring the regional boards to act within their framework.

(B) While in practice the State Water Pollution Control Board has reviewed the actions or orders of regional boards, its power to do so under Section 13025, which provides for state board intervention when the regional board fails to take appropriate action, has been questioned. In order that the state board's responsibility to establish overall state policy and co-ordinate the regional boards' actions be carried out, appellate powers are essential. The state board should be given the power to review *de novo* any action or order of a regional board on the request of any interested person or on its own motion.

PUBLIC AND RECREATION INTEREST REPRESENTATION

The interests of recreation and the general public should be more adequately represented on the regional control boards.

At present, virtually all of the beneficial uses of water are specifically represented on regional pollution control boards, with the exception of the general fish-wildlife-recreation area, and the general public. The protection and preservation of fishery resources, aquatic recreation and the public interest in general are among the most important problems confronting the regional boards in their task of setting water quality standards. Accordingly, the subcommittee proposes the addition to the present membership of the boards one person associated with recreation and wildlife and one person not specifically associated with any of the interests represented on the board, but representing the public at large.

DEFICIENCIES IN ENFORCEMENT PROCEDURES

The present enforcement procedures for the control of water pollution lack clarity and effectiveness

(A) The regional boards should be empowered to incorporate adequate safety margins in prescribing waste discharge requirements. Consideration must be given to the occasional but inevitable failures and shutdowns of plants treating sewage and industrial waste In addition, testimony presented to the subcommittee indicates that the long-term effects on fish and wildlife of pollution below the toxic level is difficult to evaluate. In view of these factors, and the interest of the state in maintaining the highest practicable standards, water quality should not be allowed to deteriorate to marginal levels.

(B) Of course the regional board must find that its discharge requirements are being violated before any enforcement action can take place. At present, Section 13060 requires that such a finding be preceded by a public hearing. This hearing has often been used as a delaying tactic by waste dischargers, and generally proven of little practical use. Dischargers are given a full opportunity to dispute the requirements prescribed for them in a hearing held before they are established. The determination of whether such requirements are actually being violated is a relatively simple step, ascertainable by scientific means. Dischargers may dispute the board's findings in court

if legal action is taken against them Therefore it is recommended that the requirements of an additional hearing before the regional board may find that requirements are being violated be made permissive rather than mandatory.

(C) At present, waste discharges in operation before 1949 are not subject to the act unless actual or threatened pollution or nuisance is involved. The inability of regional boards to require reports from these sources or prescribe waste discharge standards for these significant sources of possible pollution diminishes the effectiveness of the act. The subcommittee therefore proposes to require these dischargers, as well as later ones, to report their discharges to the regional board, which would have the same duty to prescribe requirements for them as it now exercises in respect to post-1949 sources.

(D) Effective enforcement requires that regional boards be able to change their requirements as the nature, location or volume of discharges are changed. While at present the boards may revise their standards, such power is greatly handicapped because dischargers are not required to report changes in the character, location or volume of their discharges. Accordingly, it is proposed that major changes be subject to the same report requirements as a new discharge.

(E) Under the present law, the regional boards have taken the position that they have no right to question a discharge, but must merely set requirements for it. It is entirely possible, for instance, for waste dischargers to make use of streams, reservoirs or lakes in the immediate vicinity of domestic water intakes so long as requirements are followed. The regional boards should have the power to prohibit a waste discharge altogether under certain conditions when the discharger cannot show that the location he has chosen is one necessary to him rather than merely convenient, and amendments having that effect are proposed.

(F) Failure to comply with the board requirements should be a misdemeanor. Requirements are established after full hearing and a thorough study of the problems involved. Once arrived at, they should constitute the law so far as the discharger is concerned.

In addition, failure to file reports of proposed discharges, or reports of existing discharges requested by the regional boards, or any technical report the boards are authorized to request, should be a misdemeanor.

Injunctive proceedings should be made available in addition to the criminal sanctions outlined above.

(G) At present, no machinery is available for the prevention of waste discharges that are transitory in nature or brief but periodic, such as discharges from temporary gravel pits and short-term logging operations, where ordinary enforcement procedures are too cumbersome and time-consuming. This legislation proposes that summary abatement of such a condition be permitted in the same manner in which a public nuisance is now abated, provided the condition amounts to a state of pollution or nuisance.

(H) The power of the Department of Fish and Game to carry out its responsibilities to preserve fish and wildlife from water pollution should be clarified. Some confusion has been caused by Section 5651

of the *Fish and Game Code*, requiring the department to refer any chronic or continuing state of pollution to the regional water pollution control board. A new Section 5652 is proposed therefore, which would clearly authorize the Department of Fish and Game to take appropriate action against pollution until the regional board has established requirements for the discharge.

In submitting its recommendations, the subcommittee wishes to reaffirm its approval of the basic principles of the Dickey Act. Regional boards, most conversant with conditions in their areas, must have the power to tailor discharge requirements to each individual source concerned, to co-ordinate local groups working for the prevention of water pollution, and to work with the local individuals and agencies concerned in voluntary programs to maintain the quality of water resources. A careful study of the act has indicated that in order to enhance its effectiveness, the interests of the State in the preservation of her water resources must be clarified, and the procedures for protecting these interests must be simplified and strengthened. The people of the State have a vital interest in seeing that the disposal of wastes is so regulated as to achieve the highest quality consistent with the maximum benefit.

APPENDIX A

JOINT STATEMENT OF THE STATE AND REGIONAL WATER POLLUTION CONTROL BOARDS TO THE SUBCOMMITTEE ON BAY AND WATER POLLUTION

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING AND PUBLIC WORKS

April 2, 1958

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JOINT STATEMENT OF THE STATE AND REGIONAL WATER POLLUTION CONTROL BOARDS

to the

SUBCOMMITTEE ON BAY AND WATER POLLUTION, ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING AND PUBLIC WORKS

INTRODUCTION

At a public hearing held in San Francisco on November 4 and 5, 1957, the Subcommittee on Bay and Water Pollution of the Assembly Interim Committee on Conservation, Planning and Public Works asked the State Water Pollution Control Board for recommendations relative to the revision or clarification of state water pollution control laws. Subsequently, each of the nine regional water pollution control boards also were requested to review the present laws and to advise the subcommittee of suggested changes that would clarify these laws or would provide for better administration of the water pollution control program in California

The state and regional boards agreed that it would be both desirable and feasible to combine the individual statements of the 10 boards into a single report to the subcommittee. The following joint statement of the water pollution control boards consists of: (1) a digest and composite report of the recommendations for legislative changes; (2) a brief progress report; and (3) appended documents consisting of the full statement from each board as well as other pertinent material that may be of interest and assistance to the subcommittee.

A detailed outline of the Water Pollution Control Act and related laws was prepared to assist the boards and their staffs in evaluating the present statutes on a point-by-point basis (see Appendix B). A task force of the executive officers for the 10 boards reviewed the point-by-point outline and drafted recommendations for possible changes in the laws. Eleven recommendations were proposed by the executive officers, and these recommendations were submitted to each of the boards in a report dated February 26, 1958 (see Appendix C).

Because each of the five state departments (Agriculture, Fish and Game, Natural Resources, Public Health, and Water Resources) represented on the State Water Pollution Control Board have a special interest in the water pollution control laws, a departmental task force group was created at the request of the state board. This second task force, composed of representatives of the five departments, prepared a report containing 18 recommendations for legislative changes and submitted the report to the state board on February 25th (see Appendix D). The report also was furnished to the regional boards for their information and consideration.

Upon receipt of the two task force reports, the state board and the nine regional boards formally acted upon the request of the Subcommittee on Bay and Water Pollution. Each board submitted independent

statements of recommendations for changes in the water pollution control laws. The full statement of each board has been appended to this joint statement (Appendices E through N) and the recommendations of the 10 boards are summarized in the following section as a composite report to the subcommittee.

To further assist the subcommittee in reviewing the water pollution control program, a report of progress also has been prepared and incorporated in this joint statement. The progress report briefly records the accomplishments in abating and preventing water pollution since the inception of the program in 1950.

COMPOSITE REPORT OF STATE AND REGIONAL BOARD ACTIONS

The following composite report has been prepared for the convenience of the Subcommittee on Bay and Water Pollution in its review of the various recommendations made by the state and regional boards for changes in the water pollution control laws. As stated above, the complete recommendations and comments of each board are appended to this joint report.

In their deliberations on this subject, the boards agreed with and endorsed 13 fundamental principles upon which the existing California water pollution control laws and program are based. These principles are:

1. Regional control.
2. Recognition of control by other laws or remedies.
3. Co-ordinated action.
4. Regulation by an agency representing multiple "water quality interests" rather than a single "vested interest."
5. Formulation of long-range plans and policies at the administrative level.
6. Co-operative approach.
7. Recognition that waters of the State can be used for controlled waste disposal.
8. Separation of technical and regulatory functions.
9. Separation of health and economic aspects of water pollution control.
10. Regulations by specifying end results to be achieved.
11. Regulation on the primary basis of case-by-case determinations.
12. Provision for the state board to act when a regional board fails to take or obtain appropriate action.
13. Enforcement by administrative adjudication followed by court injunctive action.

The boards are unanimous in their opinion that, basically, the 1949 Water Pollution Control (WPC) Act has provided a sound and effective procedure for prevention and abatement of water pollution. However, the state board and eight of the regional boards believe that the existing laws could be administered more effectively if some of the provisions of these laws were clarified or expanded by legislative amendments.

The San Francisco Bay Regional Board feels that the WPC Act, as amended to date, has provided a method by which the control boards have satisfactorily and equitably fulfilled the legislative intent imposed

by this act. This board believes that any marked changes in the act at this time might deter the effectiveness of the operating programs thus far established. For this reason the San Francisco Bay Regional Board took no action on the suggested changes in the water pollution control laws. However, the board has offered its assistance in consulting with legislative committees should the Legislature in its wisdom determine that some changes in the laws are necessary.

The following is a digest and summary of recommendations for legislative changes as suggested by one or more of the boards. See Appendix A for a list of the regional boards and a map of the regions.

Recommendation A *

The principle of co-ordinated action is already incorporated or implied in the WPC Act However, it is recommended that the Legislature further emphasize this principle by:

(1) Recognizing and declaring that the state and regional boards are the principal agencies responsible for the control of water pollution in California;
(2) Declaring that these boards are directed to obtain a co-ordinated water pollution control program in this State; and
(3) Requiring that other state agencies co-operate with the water pollution control boards in obtaining co-ordinated action.

Board Actions. Five regional boards (1, 3, 4, 7 and 8) endorsed this recommendation Three regional boards (5, 6 and 9) and the state board did not endorse the recommendation because they believed that the principle of co-ordinated action is clearly provided for in the act and that the correction of problems in this respect is an administrative matter.

Recommendation B

That the state agency or agencies responsible for the formulation of long-range plans for development and protection of water resources be directed to collaborate with the water pollution control boards in matters of water quality as it relates to sewage and industrial wastes.

Board Actions. Two regional boards (1 and 7) endorsed this recommendation. Six regional boards (3, 4, 5, 6, 8 and 9) and the state board did not endorse the recommendation. Five regional boards (3, 4, 6, 8 and 9) and the state board expressed the opinion that this problem can be handled administratively under existing statutes.

Recommendation C

That membership of the regional boards be increased by appointment of one person associated with water use for recreation and/or wildlife; provided, that the person so selected shall not be connected officially with any federal, state or local agency having regulatory powers in this field.

* Recommendations are identified either by the letter used in the Executive Officers' Task Force Report (Appendix C), or by the number used in the Departmental Task Force Report (Appendix D) Task Force recommendations that were not endorsed by one or more boards do not appear in this composite report Some of the Departmental Task Force recommendations were similar to those in the Executive Officers' Report (No 12 is similar to C, No 13 similar to G and H, No. 17 similar to I and J, No 18 similar to K), and have been identified only by letter in the composite report.

Board Actions. The state and four regional boards (5, 6, 7 and 9) gave unqualified endorsement to this recommendation and one board (Region 1) endorsed the recommendation if it will assist in a more equitable administration of the law. The endorsing boards believe that it would be desirable to give recognition to the rapid development of water use for recreation and wildlife preservation. These boards point out that the ramifications and economic impact of the recreational development in recent years has removed this water use category from an incidental role to a position comparable with the other water uses represented on the regional boards. The state board in endorsing this proposal modified the recommendation to read "* * * one person associated with water use for *both recreation and wildlife* * * *."

The three regional boards (3, 4 and 8) that did not endorse this recommendation offered the following reasons for their actions:

(1) There is ample latitude within the present classification to appoint a general member associated with water use for recreation and wildlife.
(2) Present city and county representatives on the regional boards can take care of recreation and wildlife interests.
(3) A six-man board is not desirable.

Recommendation D

That the law clearly enunciate state policy regarding use of waters of the State for assimilation of wastes.

Board Actions. Three regional boards (1, 7 and 8) endorsed this recommendation. Four regional boards (3, 4, 6 and 9) and the state board did not endorse the recommendation since they felt that this basic principle is clearly stated in the present law. One board (Region 5) had no recommendations regarding this proposal as the board believes this is a matter embodied in the fundamental principles of the WPC Act.

Recommendation E

That the Legislature clarify the position and authority of the state board as an appellate body to review the actions of a regional board (under the provisions of Water Code Section 13025).

Board Actions. Five regional boards (1, 3, 4, 7 and 8) endorsed this recommendation for clarification and one of these boards (Region 4) further recommended that the law be amended to permit the state board to review actions of a regional board *only* in event the regional board has failed to take an action pursuant to the provisions of the WPC Act. Regional Board No 4 based its recommendation on the belief that the WPC Act should be amended to strengthen the concept of regional control. One board (Region 5) had no recommendations for changes in provisions of the law on this point. Two regional boards (6 and 9) and the state board did not endorse the recommendation, and the latter board expressed the opinion that there has been no proven necessity for clarification of this principle.

Recommendation F

That the WPC Act should provide for an immediate and effective enforcement procedure whereby the water pollution control boards

could take summary action in handling cases of pollution or nuisance which are transitory in nature or are of short duration but periodic in occurrence. Such summary procedure should be *in addition* to the present provisions for administrative adjudication followed by court action and should serve as an *alternate* procedure which the boards could invoke when necessary to deal with situations that cannot be handled effectively under existing enforcement methods.

Board Actions: Seven regional boards (1, 3, 4, 5, 6, 7 and 9) and the state board endorsed this recommendation. One board (Region 8), although believing that the idea had merit, did not endorse the recommendation as written, since the board felt it would involve police powers and that it would be inappropriate to give such powers to the control boards.

Recommendation G

That the WPC Act provide for appropriate legal action (for example, misdemeanor or mandatory injunction) for failure of a discharger to file a report of the proposed waste discharge (under the provisions of Water Code Section 13054).

Board Actions: Eight regional boards (1, 3, 4, 5, 6, 7, 8 and 9) and the state board endorsed this recommendation However, the state board and one regional board (No. 6) qualified their endorsement on condition that the recommendation be amended to provide for legal action only against a discharger who failed to file a report *after being requested to do so by a regional board.*

Recommendation H

That the WPC Act authorize the boards to prescribe requirements for any existing waste discharge.

Board Actions: Eight regional boards (1, 3, 4, 5, 6, 7, 8 and 9) and the state board endorsed this recommendation.

Recommendation I

That the WPC Act provide for appropriate legal action (for example, misdemeanor or mandatory injunction) for failure or refusal to submit technical reports requested by a control board (under the provisions of Water Code Section 13055).

Board Actions: Eight regional boards (1, 3, 4, 5, 6, 7, 8 and 9) and the state board endorsed this recommendation.

Recommendation J

That the WPC Act specify that regional boards may require submission of technical reports for any existing waste discharge.

Board Actions: Eight regional boards (1, 3, 4, 5, 6, 7, 8 and 9) and the state board endorsed this recommendation.

Recommendation K

That the Legislature authorize the State Water Pollution Control Board to publish biennial progress reports.

Board Actions: Eight regional boards (1, 3, 4, 5, 6, 7, 8 and 9) and the state board endorsed this recommendation.

*Recommendation 5 **

That the WPC Act declare that no disposal of wastes to the waters of the State shall preclude future use of such waters for other beneficial purposes.

Board Actions: The state board and two regional boards (4 and 6) endorsed this recommendation Regional Board No. 8 did not endorse it, and the remaining regional boards took no action relative to this recommendation.

*Recommendation 15/16 **

That the WPC Act be amended to: (a) make compliance with waste discharge requirements mandatory, (b) provide that failure to comply with such requirements constitutes a violation of the act, and (c) authorize the water pollution control boards to initiate injunctive action against waste dischargers who fail to comply with such requirements.

Board Actions: The state board and one regional board (No. 6) endorsed this recommendation. Three regional boards (3, 4 and 8) did not endorse it, and the remaining boards took no action relative to this proposal.

Miscellaneous Recommendations

The following are miscellaneous additional recommendations of an individual board:

1. Regional Board No. 5 recommends removal of the statutory salary limitation for regional executive officers (Water Code Section 13050-c).
2. Regional Board No. 5 recommends that Section 7076 of the Water Code be amended to relieve the regional boards of the responsibility of receiving and filing water well drillers reports. The board points out that this activity entails considerable expense and that little or no use is made of the reports in this region.

PROGRESS REPORT

The state and regional boards firmly believe that the fundamental principles and philosophy expressed in the existing statutes provide a sound and effective means for preventing and abating water pollution. To support this opinion, the boards have prepared the following progress report summarizing some of the accomplishments of the California Water pollution control program since its inception in 1950.

Water pollution control in California is vital to the economic development of the State and must continuously be exercised to protect and preserve the State's water resources. Almost every community is expanding in population and service area—thus increasing the volume of wastes which must be treated and disposed of. The net effect is that capacities of existing sewage treatment works are frequently being exceeded. At the same time, the State is experiencing rapid industrial development. Expansion of existing plants, new industries, new products all lead toward greater industrial waste disposal problems which must be solved.

* (See footnote on page 27)

Problems

The control boards recognize that there are unsolved problems and major tasks still confronting them. First, and foremost, there are a number of local cases of actual or threatened pollution existing throughout the State. Some of these pollution cases will take considerable time to bring about complete correction, but, except for a few isolated instances, progress is being made for their ultimate correction.

The second type of problem or task facing the control boards involves the need for more technical knowledge and information in certain fields. Some of the subjects and areas in which the boards or other agencies are currently investigating for the purpose of acquiring additional or expanded technical data are:

(1) Submarine outfall disposal of sewage and sludge (approximately 65 percent of the State's sewage and industrial waste is discharged into saline waters).
(2) Biological conditions in San Francisco Bay and the Sacramento-San Joaquin Delta area.
(3) Capacity of major California streams to assimilate wastes while at the same time preserving beneficial uses of these streams.
(4) Factors affecting ground water quality, including the problems associated with water well construction and abandonment.
(5) Radioactive waste disposal.
(6) Classification and disposal of oily wastes.
(7) Effects of synthetic organic chemicals and other pollutants on aquatic life.

A third problem area relates to continuing administrative programs such as:

(1) Adoption of more complete and more precise long-range plans and policies, both regionwide and statewide, for the control of water pollution.
(2) Considerations of water quality and the maintenance of satisfactory water quality for the development of the California Water Plan.
(3) Checking and enforcing waste discharge requirements.
(4) Obtaining more effective operation and maintenance of waste treatment facilities.
(5) Obtaining better co-ordination between public agencies and other interests concerned with water pollution.
(6) Control and abatement of international water pollution problems.

Accomplishments

The water pollution control agencies and, more particularly, the waste dischargers in California can point to an impressive record of progress during the past eight years. This record has been achieved while confronted with a phenomenal 33.4 percent increase in population coupled with a comparable expansion of industry since 1949.

When the water pollution control boards began operating early in 1950, many communities throughout the State were discharging untreated or inadequately treated sewage. Today, with few exceptions, the

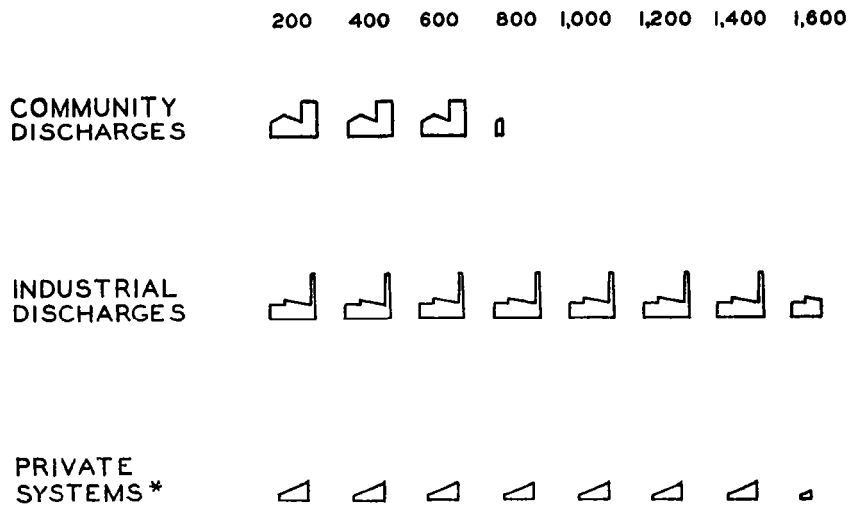
adverse conditions existing in 1950 have been satisfactorily corrected. Of even greater significance, is the fact that in the past eight years *every new, major sewerage or industrial waste system has been provided with adequate treatment and disposal facilities.*

Industrial Wastes

During the legislative hearings prior to adoption of the present water pollution control laws, the Assembly Interim Fact-Finding Committee on Water Pollution found that regulatory activity in the field of industrial waste disposal was limited. One of the principal accomplishments of the control boards has been the initiation and implementation of an extensive industrial waste control program. As shown in Figure 1, a total of 1,522 sets of requirements for industrial waste discharges have been established by the regional boards since April, 1950.

FIGURE 1

REQUIREMENTS ESTABLISHED BY REGIONAL BOARDS APRIL, 1950, THROUGH DECEMBER, 1957

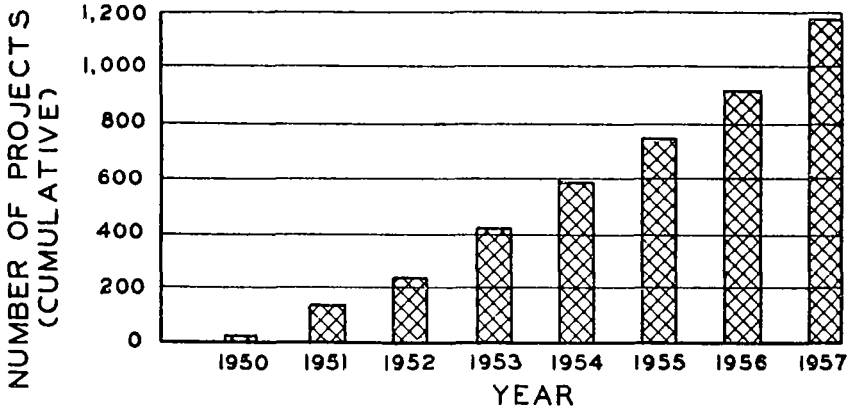


**Labor camps, motels, service stations, schools, restaurants, resorts, etc.*

Industry has constructed a total of 1,160 waste treatment and disposal projects in the past eight years. Figure 2 shows the number of industrial waste treatment facilities constructed during the eight-year period. In no known instance has a significant new pollution problem been created by the discharge of industrial wastes. California's community sewerage construction program (as discussed later) has also been a major factor in protecting the State's waters from pollution by industrial wastes, since many industries discharge their wastes directly into community sewerage systems where they are treated and disposed of along with the community's domestic sewage.

FIGURE 2

CONSTRUCTION OF INDUSTRIAL WASTE TREATMENT AND DISPOSAL FACILITIES



Regulation of Wastes

One criterion of activity and progress in the field of water pollution control is the record of waste discharge requirements prescribed by the regional boards. As depicted in Figure 1, 644 sets of requirements have been established for community waste discharges, 1,522 for industrial waste discharges, and 1,469 for discharges from private systems such as labor camps, motels, service stations, schools, restaurants, and resorts. In a majority of instances, waste discharge requirements are being met and, in those isolated cases where the requirements are presently being violated, the regional boards are maintaining a constant vigil to see that the discharger makes reasonable progress towards ultimate compliance with the requirements.

Community Disposal of Sewage

The greatest gains in the prevention and abatement of water pollution have been in the control of wastes from the 593 California communities that now have sewerage systems. Figure 3 has been prepared to illustrate the number of community waste discharges in each of the nine regions, both with and without treatment, in 1950 and again in 1957. This chart shows that, whereas the total number of community waste discharges has increased from 474 to 593 (a 25 percent increase), the number without treatment has decreased from 134 in 1950 to only 40 in 1957.

In 1950, over 28 percent of the communities were discharging raw sewage into the waters of the State. In 1957 less than 7 percent did not have treatment facilities. The greatest decrease in number of raw discharges has occurred in the San Francisco Bay region (No. 2).

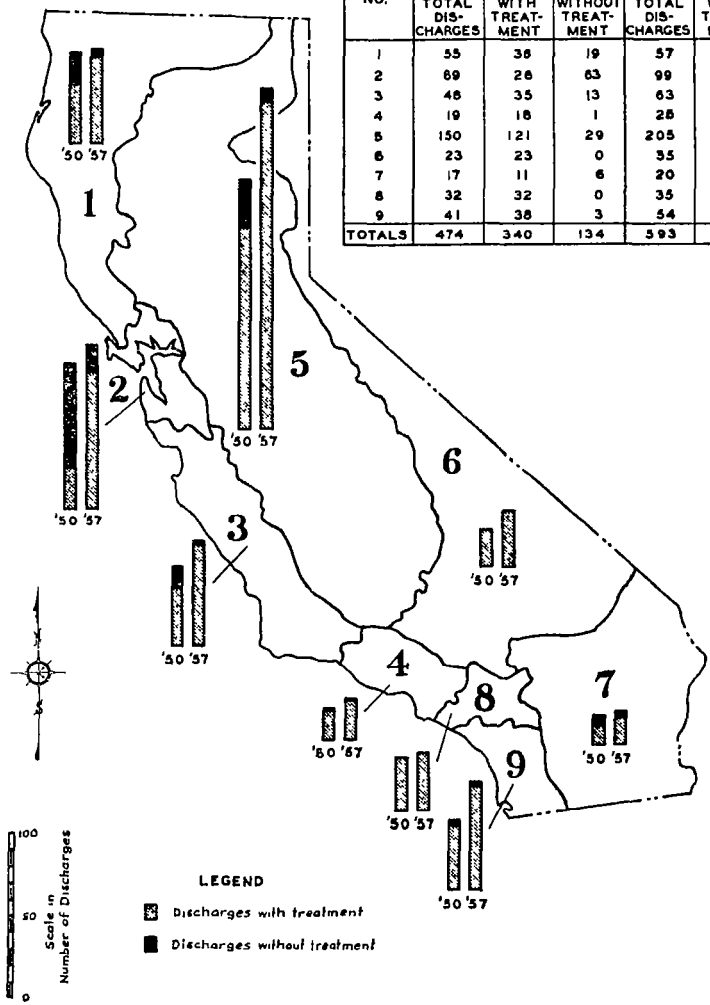
(For purposes of this report, waste treatment is considered to be at least the equivalent of primary sedimentation with separate sludge digestion. Community discharges include those from cities and sewerage districts, from military installations, and from state and federal institutions such as prisons and hospitals. Some "community" sewage systems actually dispose of the wastes from a number of individual communi-

FIGURE 3

CALIFORNIA COMMUNITY SEWERAGE SYSTEMS

SUMMARY OF DATA

REGION NO.	NUMBER OF COMMUNITY DISCHARGES					
	1950			1957		
	TOTAL DIS-CHARGES	WITH TREAT-MENT	WITHOUT TREAT-MENT	TOTAL DIS-CHARGES	WITH TREAT-MENT	WITHOUT TREAT-MENT
1	55	36	19	57	52	5
2	89	26	63	99	83	16
3	48	35	13	63	61	2
4	19	18	1	25	24	1
5	150	121	29	205	196	9
6	23	23	0	35	35	0
7	17	11	6	20	16	4
8	32	32	0	35	35	0
9	41	38	3	54	51	3
TOTALS	474	340	134	593	553	40



ties. For example, in the Los Angeles region (No. 4) one large sewerage system treats and disposes of the wastes from more than 40 incorporated cities as well as large tracts of unincorporated area.)

Figures 4 through 7 show four indices of progress in the control of water pollution from community waste discharges. As pictured in Figure 4, the *sewered* population in eight years has grown from 8,500,000 to 11,740,000—an increase of 38 percent. In 1950 only 75 percent of the sewered population had waste treatment facilities. Eight years later, 98 percent of the sewered population had treatment facili-

FIGURE 4

POPULATION SERVED BY SEWERAGE SYSTEMS

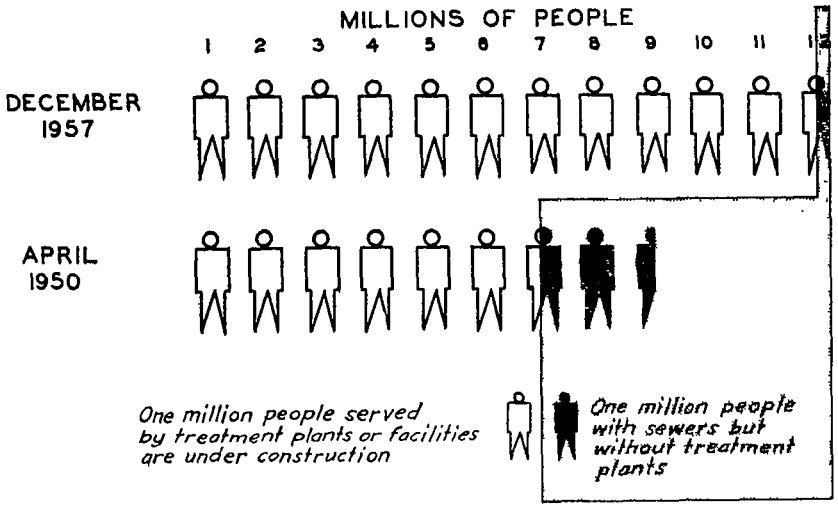
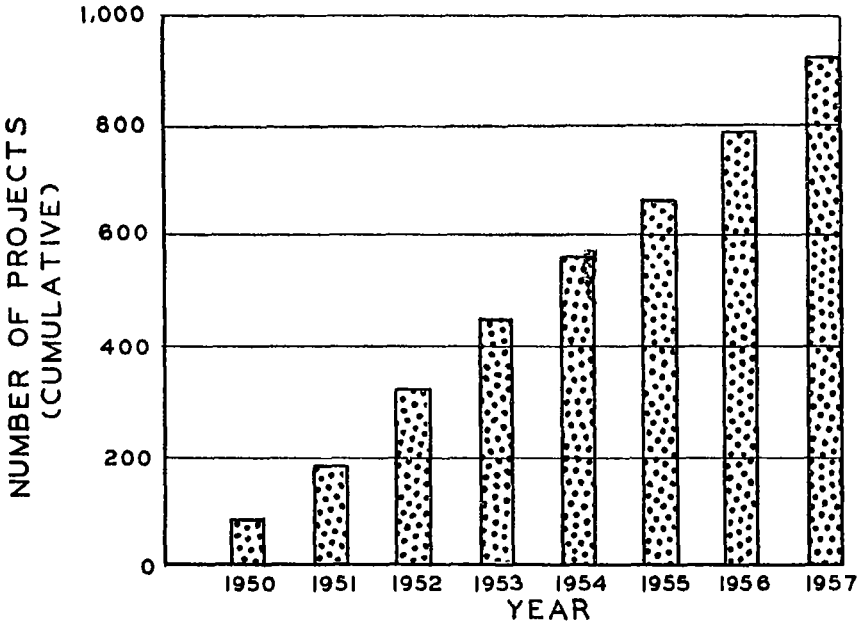


FIGURE 5

NUMBER OF PROJECTS FOR CONSTRUCTION OF SEWAGE TREATMENT AND DISPOSAL FACILITIES

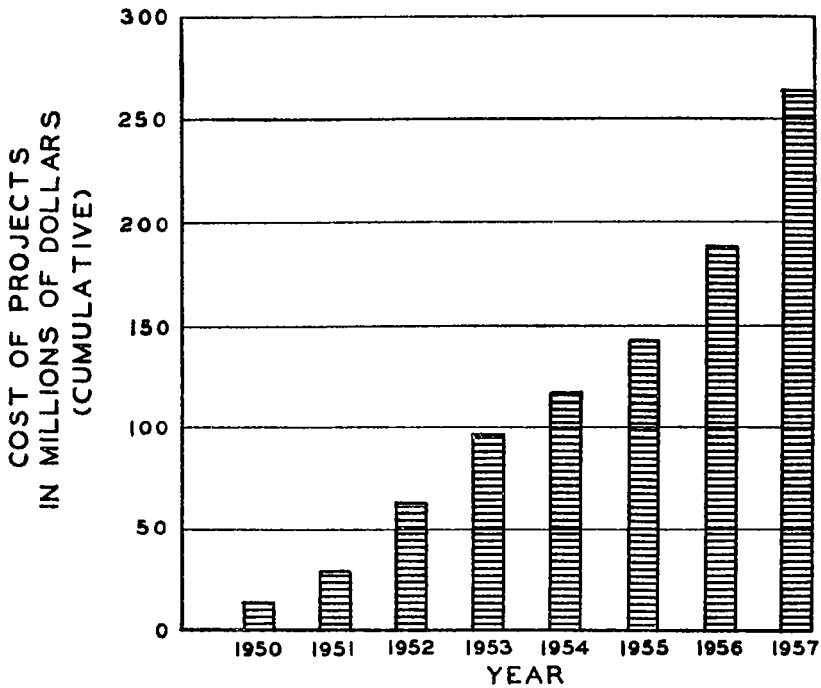


ties. In 1950 communities with a total population in excess of 2,130,000 were discharging raw sewage. By 1957 this figure had been reduced to less than 250,000 The sewered population (11,740,000) in December, 1957, was approximately 82 percent of the total state population (14,350,000). (The sewered population figures represent the actual number of persons served by sewers and do not reflect the large industrial waste load discharged into many community sewerage systems.)

A second index of progress by communities is the number of construction projects started each year for sewage treatment and disposal purposes. Figure 5 illustrates the cumulative number of projects constructed each year since 1950. During this eight-year period, 916 projects were undertaken. The number of projects per year has been fairly consistent, varying from 87 in 1950 to 139 in 1952. These projects included, in addition to complete new sewerage systems, modifications and additions to existing systems. Moreover, growth in some communities has been so rapid that two or more plant-expansion projects have been necessary in these communities during the report period.

FIGURE 6

COST OF CONSTRUCTION FOR SEWAGE TREATMENT AND DISPOSAL PLANTS

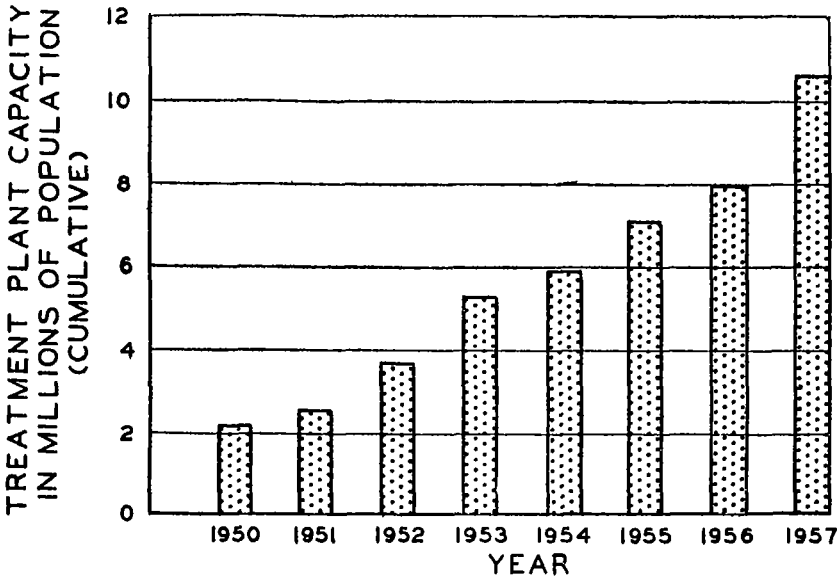


Community progress is also indicated by the amounts spent on construction of sewerage facilities. Between 1950 and 1957, $264,268,000 was invested in sewerage construction As shown in Figure 6, the annual dollar value of construction was relatively uniform up until 1955 (averaging about 28 million dollars per year). In the last two years there has been a rapid acceleration in the rate of expenditure, with over 46 million dollars spent in 1956 and almost 76 million dollars contracted for in 1957.

The final index of the progress made by communities in controlling pollution is the treatment plant capacity that has been provided by construction projects since 1950. Figure 7 has been prepared to show the cumulative additional plant capacity in terms of population that can be served. During the eight-year period, treatment plant construction has provided additional capacity to handle the wastes from an estimated population of 10,510,000. This figure is over three times the actual increase in sewered population (3,240,000) since 1950—clearly indicating that most California communities are looking into the future and are providing treatment facilities for anticipated population increases.

FIGURE 7

TREATMENT PLANT CAPACITY PROVIDED BY CONSTRUCTION PROJECTS SINCE 1950



Co-operative Approach

One fundamental principle of the 1949 Water Pollution Control Act is that of using a co-operative approach in controlling pollution. It was obviously the legislative intent that every effort be first made to solve particular pollution problems by co-operative action between cities and industries and the various governmental agencies. For instance, the act directs the regional boards to "encourage and assist in self-policing waste disposal programs for industry."

An outstanding example of co-operative action aimed to prevent and abate water pollution is that of the oil field industry. In 1950 many of the wells in the older fields, particularly in the Los Angeles area and the San Joaquin Valley, were found to be discharging brine wastes into surface streams or ground waters and thereby causing conditions of real or threatened pollution Both the Los Angeles and the Central Valley regional boards have had excellent co-operation of the oil field operators in providing adequate facilities for treating and disposing of these highly mineralized waste waters. In one field in the Los Angeles region, over 150 separate brine discharges into unlined sumps were discontinued as a result of co-operative action.

Following extensive investigations in the 61 oil fields in its region, the Central Valley Regional Board has encouraged and assisted the operators in these fields in providing waste water disposal facilities where necessary to protect waters of the State. The co-operation of the oil producers has been of the highest order, and today adequate disposal systems are either completed or under study in each of the 61 fields.

Throughout the State there are many other instances of co-operative action that could be cited The above example has been used merely to illustrate how effective the co-operative approach has been in controlling water pollution in California

Technical Investigations

The state and regional boards control water pollution by setting regulations to govern discharges of sewage and industrial wastes. One of the premises of the California legislation is that these regulations should be based on a "case-by-case" determination of whether pollution threatens or exists It was intended that regulations in each case would be established by a logical analysis of all pertinent factors. To decide each case on its own merits, the boards must obtain all available facts. The water pollution control boards have followed the policy of first getting all necessary information upon which to base their requirements rather than make arbitrary decisions.

To help the boards get the facts, the law provides that they can require any state or local agency to inspect and report on technical factors involved in water pollution. Usually this fact-finding work is done under contract or in co-operation with other agencies, although the regional boards make their own investigations in some instances. Since 1950, approximately 335 technical investigations have been made by other agencies working under contract with the control boards. In addition ,the boards have undertaken over 100 special investigations using their own staffs. More than 320 reports have been issued on these technical studies.

Monitoring of Wastes

Each regional board has established a detailed program for monitoring waste discharges. These monitoring programs are designed to protect both the water user (by demonstrating that receiving waters are being protected for their recognized beneficial uses) and the waste discharger (by protecting him from unfounded allegations that pollution is occurring as a result of his waste discharge).

Monitoring programs are often expensive. Although the State bears some of the cost of checking its waste discharge regulations, the control boards have recently adopted the policy of placing a large portion of the burden on the waste discharger by requesting him to submit technical reports on the effluent quality of the wastes and its effect on the receiving waters. By December 31, 1957, self-policing programs had been imposed on 207 communities and industries. An outstanding example of a monitoring program is that prescribed for the City of Los Angeles' waste discharge into Santa Monica Bay. This program cost the city more than $115,000 and the State approximately $19,000 annually.

Research

One of the statutory functions of the state board is that of administering programs of applied research in the technical phases of water pollution control. Every year, following its organization in 1950, the board has recommended specific research projects on statewide problems of concern to the control boards, to other state agencies concerned with maintaining the quality of waters of the State, to the waste dischargers, and to the water users.

To date a total of $680,100 has been expended for research under the direction of the state board. Of this total $203,020 represents federal grants (under the provisions of the Federal Water Pollution Control Act), $25,000 was contributed by private organizations, and $452,080 was appropriated by the Legislature. Most of the research projects have been contracted with universities, but, when in the best interest of the State, contracts have been awarded to private consultants or research organizations.

Applied research has been undertaken in several major fields: water quality criteria, waste water reclamation, disposal of sewage by submarine outfalls, leaching from refuse dumps, and sewage oxidation ponds. For a more detailed report on the research program see Appendix O.

Conclusions

The foregoing report of accomplishments and the accompanying statistics are offered to demonstrate that progress in water pollution control has been made under the program initiated by the 1949 legislation. Obviously, no single statistic nor all of the data combined tells the entire story. The number of plants built and the amount of money spent does not measure directly the positive results of pollution control. In the final analysis, the only true criterion of the effectiveness of California's pollution control program is the actual condition and quality of the waters of the State.

The monitoring programs now being conducted by the control boards and the waste dischargers are designed to guarantee that water quality is adequately protected. Although (as previously mentioned) there are always some localized problem areas, these monitoring programs have indicated that the waste discharge regulations of the regional boards are being met and the recognized beneficial water uses are being protected.

State, local, and federal agencies are continually measuring the condition of the State's waters to insure that the quality is not adversely and unreasonably impaired. Under sponsorship of the State Board, a 150-station sampling program was set up in 1950 to check surface waters. Monthly samples are collected from 86 streams and lakes and are analyzed for physical, chemical, bacteriological, and radiological conditions. This stream sampling program has shown that, with very few minor exceptions, California's surface waters are excellent in quality and that no unreasonable degradation of water quality has occurred due to sewage and industrial waste discharges.

APPENDIX

APPENDIX A

STATE OF CALIFORNIA

WATER POLLUTION CONTROL BOARDS

NORTH COASTAL REGIONAL WATER POLLUTION CONTROL BOARD (NO 1)
1739 Fourth Street Santa Rosa

SAN FRANCISCO BAY REGIONAL WATER POLLUTION CONTROL BOARD (NO 2)
1212 Broadway, Oakland 12

CENTRAL COASTAL REGIONAL WATER POLLUTION CONTROL BOARD (NO. 3)
1108 Garden Street San Luis Obispo

LOS ANGELES REGIONAL WATER POLLUTION CONTROL BOARD (NO 4)
Spring Arcade Building 541 South Spring Street Los Angeles 13

CENTRAL VALLEY REGIONAL WATER POLLUTION CONTROL BOARD (NO 5)
608 Twelfth Street Sacramento 14

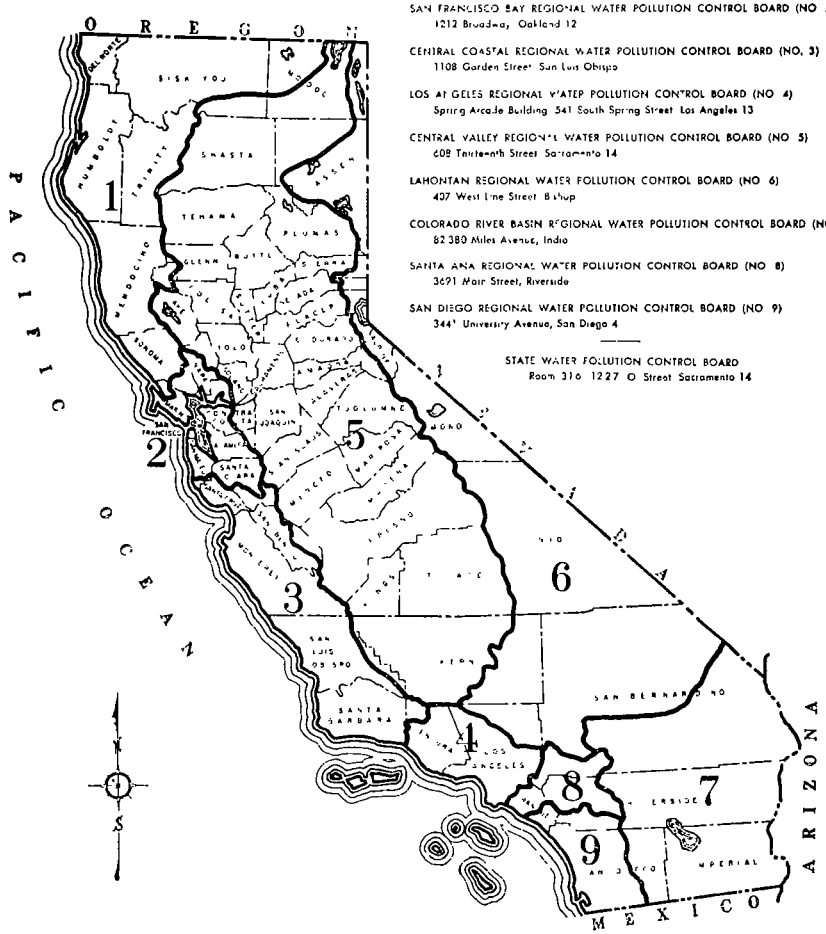
LAHONTAN REGIONAL WATER POLLUTION CONTROL BOARD (NO 6)
407 West Line Street Bishop

COLORADO RIVER BASIN REGIONAL WATER POLLUTION CONTROL BOARD (NO 7)
82 380 Miles Avenue, Indio

SANTA ANA REGIONAL WATER POLLUTION CONTROL BOARD (NO 8)
3691 Main Street, Riverside

SAN DIEGO REGIONAL WATER POLLUTION CONTROL BOARD (NO 9)
3441 University Avenue, San Diego 4

STATE WATER POLLUTION CONTROL BOARD
Room 316 1227 O Street Sacramento 14



APPENDIX B

POINT-BY-POINT OUTLINE OF WATER POLLUTION CONTROL ACT

FUNDAMENTAL PRINCIPLES AND PHILOSOPHY

I. *Regional Control*

a. * * * The Legislature further declares that it is necessary to provide means for the regional control of water pollution since problems of water pollution in this State are primarily regional and dependent upon factors of precipitation, topography, population, and recreational, agricultural and industrial development which vary greatly from region to region. 13000.

b. The State is divided, for the purposes of this division, into nine regions: * * * 13040.

II. *Recognition of Control by Other Laws and Remedies*

a. No provision of this division or any ruling of the State Water Pollution Control Board or a regional water pollution control board is a limitation:

(1) On the power of a city or county to adopt and enforce additional regulations not in conflict therewith imposing further conditions, restrictions, or limitations with respect to the disposal of sewage or industrial waste or any other activity which might result in the pollution of water. 13001(a).

(2) On the power of any city or county to declare, prohibit, and abate nuisances 13001(b).

(3) On the power of a state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer. 13001(c).

(4) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any contamination or pollution. 13001(d).

NOTE 1 Items in ( ) are not direct extracts from Division 7 of the Water Code
2 Number following an item denotes the code section from which the item is extracted Number preceded by H&S or F&G denotes the extract is from the Health and Safety Code or the Fish and Game Code, respectively

III. *Co-ordination*

a. The Legislature finds and declares that it is necessary to the health, safety and welfare of the people of this State to provide means for co-ordinating the actions of the various state agencies and political subdivisions of the State in the control of water pollution. * * * 13000.

b. Each regional board * * * shall * * * obtain co-ordinated action in the abatement, prevention and control of water pollution and nuisance by means of formal or informal meetings of the persons involved: 13052(a).

c. Each regional board * * * shall * * * request enforcement of laws concerning water pollution or nuisance by appropriate federal, state and local agencies; 13052(d).

d. (Whenever it is determined by the commission (Fish and Game) that a continuing and chronic condition of pollution exists, the commission shall report such condition to the appropriate regional water pollution control board, and shall co-operate with and act through such board in obtaining correction in accordance with any laws administered by such board for control of practices for sewage and industrial waste disposal. F&G 5651)

e. (Whenever the state department (of public health) finds that a pollution or nuisance does, in fact, exist, such condition shall be immediately referred by the department to the proper regional board for action, together with any recommendations for correction. * * * H&S 5413)

f. Each regional board * * * shall * * * report to the state board and appropriate local health officer any case of contamination in its region which is not being corrected. 13052(g).

g. It is the intent of the Legislature that the State Water Pollution Control Board and each regional water pollution control board shall co-operate with the department (of water resources) in all matters of mutual concern to the fullest extent practicable. 13003.

IV. *Regulation by an Agency Not Having a "Single Vested Interest" by Way of Multiple "Water Quality Interest" Representation*

a. The state board consists of nine members appointed by the Governor and the following officers of the State or their nominees:
   (a) The Director of Public Health;
   (b) The Director of Water Resources;
   (c) The Director of Natural Resources;
   (d) The Director of Agriculture;
   (e) The Director of Fish and Game.

   Of the nine members appointed by the Governor, at least one shall be selected from qualified persons engaged in each of the following fields:
   (a) Production and supply of domestic water;
   (b) Irrigated agriculture,
   (c) Industrial water use;
   (d) Production of industrial waste;
   (e) Public sewage disposal;
   (f) City government;
   (g) County government.

   Insofar as reasonably practicable the Governor shall appoint a member from each of the nine regions. * * * 13011.

b. A regional board, consisting of the following members shall be appointed by the Governor for each of the regions * * * :
   (1) One person associated with organizations dealing with water supply, conservation, or production; 13041(a).
   (2) One person associated with irrigated agriculture who is an owner or manager of a farm in the region; 13041(b).

(3) One person selected from persons acting in an executive or administrative capacity in industries producing industrial waste in the region. 13041(c).
(4) One person associated with the municipalities in the region; 13041(d).
(5) One person associated with the counties in the region. 13041(e).

V. *Formulation of Long-range Plans and Policies at the Administrative Level*

a. The state board shall formulate a statewide policy for control of water pollution with due regard for the authority of the regional boards. 13022.
b. Each regional board * * * shall * * * formulate and adopt long-range plans and policies with respect to water pollution control within the region; 13052(e).

VI. *Co-operative Approach*

a. Each regional board * * * shall * * * encourage and assist in self-policing waste disposal programs for industry, and upon application of any person shall advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged; 13052(b).
b Each regional board * * * shall * * * obtain co-ordinated action in the abatement, prevention and control of water pollution and nuisance by means of formal or informal meetings of the persons involved; 13052(a).

VII. *Recognition Waste Disposal Is a Use That Can Be Made of Waters of the State*

a No provision of this division shall be construed as affecting the right of any person to the use of water for any beneficial use other than the use for disposal of sewage and industrial wastes. 13002.
b. "Pollution" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree * * * which does adversely and unreasonably affect such waters for * * * beneficial use * * * 13005.

VIII. *Separation of Technical and Regulatory Functions*

a. The state board shall * * * have the power to require any state or local agency to inspect and report on any technical factors involved in water pollution. 13020(g).
b. Each regional board * * * shall * * * require any state or local agency to inspect and report on any technical factors involved in water pollution or nuisance. 13052(c).
c. Each regional board * * * shall * * * have the power to require any state or local agency to obtain and submit analyses of well water. 13052(i).
d. (* * * Upon request of a regional board the state department (of public health) shall inspect and report to the board on any technical factors involved in any condition of pollution or nuisance. H&S 5413.)

e. (The department (of water resources) * * * shall investigate conditions of the quality of all waters within the State, including saline waters, coastal and inland, as related to all sources of pollution of whatever nature and shall report thereon to the Legislature and to the appropriate regional water pollution control board annually, and may recommend any steps which might be taken to improve or protect the quality of such waters. 229.)

f. (The department (of water resources) * * * shall conduct surveys and investigations relating to the reclamation of water from sewage or industrial wastes for beneficial purposes, including but not limited to the determination of quantities of such water presently wasted, and possibilities of use of such water for recharge of underground storage or for agricultural or industrial uses; and shall report to the Legislature and to the appropriate regional water pollution control board thereon, annually. 230.)

g. (The department (of water resources) * * * shall investigate and survey conditions of damage to quality of underground waters, which conditions are or may be caused by improperly constructed, abandoned or defective wells through the interconnection of strata or the introduction of surface waters into underground waters. The department shall report to the appropriate regional water pollution control board its recommendations for minimum standards of well construction in any particular locality in which it deems regulation necessary to protection of quality of underground water, and shall report to the Legislature from time to time, its recommendations for proper sealing of abandoned wells. 231.)

IX. *Separation of Health and Economic Aspects*

a. * * * "Contamination" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which creates an actual hazard to the public health through poisoning or through the spread of disease. "Contamination" shall include any equivalent effect resulting from the disposal of sewage or industrial waste, whether or not waters of the State are affected.

"Pollution" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for * * * beneficial use * * * 13005.

b. (Whenever the state department (of public health) or any local health officer finds that a contamination exists, the department or officer shall order the contamination abated, * * * H&S 5412.)

c. (Whenever the state department (of public health) finds that a pollution or nuisance does, in fact, exist, such condition shall be immediately referred by the department to the proper regional board for action, together with any recommendations for correction. * * * H&S 5413.)

d. Each regional board * * * shall * * * report to the state board and appropriate local health officer any case of contamination in its region which is not being corrected. 13052(g).

e. * * * The state board upon finding that a contamination exists and is not being corrected, shall direct that action be taken by any state agency having jurisdiction. 13025.

X. *Regulation by End Result Control*

a. * * * The regional board, after any necessary hearing, shall prescribe requirements as to the nature of such discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is proposed and notify the person proposing the discharge of its action. Such requirements may be revised from time to time. After receipt of such notice, the person so notified shall provide adequate facilities to meet any such requirements with respect to the discharge of sewage and industrial waste. 13054.

b. No order issued under the provisions of this article shall specify the design, location, type of construction or particular manner in which an operation causing or threatening to cause a condition of pollution or nuisance is to be corrected, and the person so ordered shall be permitted to correct the condition in any lawful manner. 13064.

XI. *Provision for State Board to Act When Regional Board Fails to Take or Obtain Appropriate Action*

a. Whenever a regional board fails to take or obtain appropriate action to correct any particular existing or threatened condition of pollution or nuisance, the state board shall direct that action to correct the condition be taken by any state agency having jurisdiction or may, itself, take such action.

In taking any such action the state board is vested with the powers granted to the regional boards in Sections 13053, 13054, and 13055 and Article 3, Chapter 4, of this division, * * * 13025.

b. Each regional board * * * shall * * * file with the state board at its request, copies of any official action with respect to any particular case of actual or threatened pollution. 13052(h).

XII. *Enforcement by Administrative Adjudication Followed by Court Injunctive Action*

a. When it appears to a regional board that the discharge of sewage or industrial waste within its region is taking place contrary to any requirements prescribed by the regional board under the provisions of Sections 13053, 13054, and 13055, the board shall order a hearing on the matter and serve notice thereof by registered mail, not less than 10 days prior to the hearing on all persons alleged to be creating the condition. 13060.

b. Hearings held under the provisions of this article shall be conducted, as nearly as practicable, in accordance with the provisions of Title 2, Division 3, Part 1, Chapter 5 of the Government Code (Administrative Adjudication) and the regional board shall have all powers granted therein as an agency of the State. 13061.

c After hearing, the board shall make its findings as to whether pollution or nuisance is existing or threatening. If the board finds affirmatively, it shall thereupon order correction. 13062.

d. Upon failure of any person or persons to comply with any such order of the regional board or state board, the board issuing the order shall certify the facts to the district attorney for the county in which the discharge originates, whereupon such district attorney shall petition the superior court in and for that county for the issuance of an injunction restraining such person or persons from continuing any activity causing or threatening a pollution or nuisance. The court shall thereupon issue an order directing the person to appear before the court and show cause why the injunction should not be issued. Thereafter the court shall have jurisdiction of the matter, * * *

When complaint is made to the Attorney General that the district attorney of any county has not performed a duty devolving upon him by the provisions of this division or is not proceeding with due diligence or in the proper manner in the performance of the duty, the Attorney General shall make an investigation. If he finds the charge to be true, the Attorney General shall diligently prosecute the action to secure the issuance of an injunction restraining the person or persons who have failed to comply with any such order of the regional board or state board from continuing any activity causing or threatening a pollution or a nuisance, and in such case he shall have the powers and duties of the district attorney. 13063.

GENERAL POWERS AND DUTIES

(Items not fully covered in Fundamental Principles and Philosophy section)

I. *Definitions*

a * * * "Sewage" means any and all waste substance, liquid or solid, associated with human habitation, or which contains or may be contaminated with human or animal excreta or excrement, offal, or any feculent matter.

"Industrial waste" means any and all liquid or solid waste substance, not sewage, from any producing, manufacurting or processing operation of whatever nature.

"Waters of the State" means any waters, surface or underground, including saline waters, within the boundaries of the State as defined and described in Section 1 of Article XXI of the Constitution and as given greater precision in Sections 170, 171, and 172 of the Government Code.

"Contamination" means an impairment of the quality of the waters of the State by sewage or industrial waste to a

degree which creates an actual hazard to the public health through poisoning or through the spread of disease. "Contamination" shall include any equivalent effect resulting from the disposal of sewage or industrial waste, whether or not waters of the State are affected.

"Pollution" means an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic, industrial, agricultural, navigational, recreational or other beneficial use, or which does adversely and unreasonably affect the ocean waters and bays of the State devoted to public recreation.

"Nuisance" means damage to any community by odors or unsightliness resulting from unreasonable practices in the disposal of sewage or industrial wastes. * * * 13005.

b No act or event shall be deemed to be "threatened" or "threatening" within the meaning of this division unless there is a reasonable probability that the act or event will occur. 13006.

II. *Administrative Powers and Duties*

a. The State Water Pollution Control Board shall:
   (1) Appoint and fix the salary of an executive officer who is a registered engineer with at least five years of engineering experience relating to water pollution and waste disposal. The executive officer shall be exempt from the state civil service and shall serve at the pleasure of the board 13020(b).
   (2) Appoint such secretarial and stenographic help, subject to the State Civil Service Act, as the board determines necessary to enable it to carry out the provisions of this division. 13020(c)
   (3) Allocate to the regional boards from funds appropriated to the state board such part thereof as may be necessary for the administrative expenses of such boards. 13020(f).
   (4) At the request of a regional board, assist the citizens of any area in the formation of a district authorized to provide facilities necessary to correct any condition of contamination, pollution, or nuisance. 13020(h).
   (5) * * * administer any statewide program of financial assistance for water pollution control which may be delegated to it by law and may accept funds from the United States or any person to that end 13023.

b. Each regional board shall:
   (1) Appoint an executive officer and fix his salary at a sum not to exceed nine hundred seventy dollars ($970) per month. 13050(c)
   (2) Employ such other assistants as may be determined necessary to assist the executive officer. 13050(d).
   (3) Recommend to the state board projects for the reduction of water pollution which the regional board considers

eligible for any financial assistance which may be available through the state board. 13052(f).

III. *Water Pollution Control Powers and Duties*

a. The state board shall administer any statewide program of research in the technical phases of water pollution control which may be delegated to it by law and may accept funds from the United States or any person to that end. The state board may conduct such a program independently, or by contract or in co-operation with any federal or state agency, including any political subdivision of the State, or any person or public or private organization 13024.

b. Regional Water Pollution Control Boards.

(1) * * * may investigate any source of water pollution or nuisance within its region and may require that any person responsible for meeting prescribed requirements furnish such technical reports as the board may specify. 13055.

(2) * * * shall prescribe requirements relative to any particular condition of pollution or nuisance, existing or threatened, in the region. 13053.

(3) Any person proposing to discharge sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of such proposed discharge. The reporting of a discharge of sewage from family dwellings in any area may be waived by the regional board. The regional board, * * * , shall prescribe requirements as to the nature of such discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is proposed and notify the person proposing the discharge of its action. * * * 13054.

IV. *Miscellaneous*

a The board shall take no action which is not approved by seven or more of its members. The state board shall hold at least two regular meetings each year and such additional special meetings as shall be called by the secretary upon the request of the chairman or two members of the state board. The regular meetings shall be held alternately in the southern and northern portions of the State. 13021.

b. The regional board shall hold at least one regular meeting each calendar quarter and such additional special sessions as shall be called by the chairman or any two members of the regional board 13043.

c. Members of the regional board shall be empowered to administer oaths. 13051.

d. Water well construction reporting.

(1) (Every person who hereafter digs, bores or drills a water well, or who deepens or reperforates any such well, shall file with the appropriate regional water pollution control

board a report of completion of such well within 30 days after its construction or repair has been completed)

(The report shall be made on forms furnished by the Department of Water Resources and shall contain such information as the department may require, including, but not limited to. (a) description of exact location of the well; (b) detailed log of the well; (c) description of type of construction; (d) details of perforation; and (f) methods used for sealing-off surface or contaminated waters. 7076)

(2) (Reports made pursuant to Section 7076 shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. 7076 1.)

(3) (Every person who hereafter converts, for use as a water well, any oil or gas well originally constructed under the jurisdiction of the Department of Natural Resources pursuant to the provisions of Article 4, Chapter 1, Division 3 of the Public Resources Code, shall comply with all provisions of this chapter. 7077)

(4) (Failure to comply with any provision of this chapter, or willful and deliberate falsification of any report required by this chapter is a misdemeanor. 7078.)

STATE WATER POLLUTION CONTROL FUND

I. *Purpose*

a. The fund shall * * * be available for expenditure by the state board in making loans to municipalities and districts for the construction of sewerage and storm drainage facilities. * * * 13101

II. *Loan Application Requirements*

a. Applications for loans * * * shall include·

(1) A description of the proposed facilities 13102(a)

(2) A statement of facts showing the necessity for the proposed facilities and showing that funds of the municipality or district are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible or would impose an unreasonable burden on the municipality or district 13102(b).

(3) A proposed plan for repaying the loan. 13102(c).

III. *Criteria for Loan Approval*

a. Upon a determination by the state board, after consultation with the State Board of Public Health, that the sewerage facilities proposed by an applicant are necessary to the health or welfare of the inhabitants of the State, and that the proposed facilities meet the needs of the applicant, that funds of the municipality or district are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible

or would impose an unreasonable burden on the municipality or district, and that the proposed plan for repayment is feasible, the state board, subject to approval by the Director of Finance, may loan to the applicant such sum as it determines necessary to construct the proposed facilities. 13103.

IV. *Security and Repayment*

a. Money loaned under the provisions of this chapter shall be secured by bonds of the borrowing municipality or district and shall be repaid, with interest at the rate of 2 percent, in annual installments of such amount as the state board determines to be feasible. The board, subject to approval by the Director of Finance, may defer any one or more of the repayment installments of a borrowing municipality or district. 13104

b All money received in repayment of loans under this chapter shall be paid to the State Treasurer and credited to the fund for expenditure by the state board in making loans under the provisions of this chapter Whenever, in the judgment of the state board, the amount of funds accumulated to the credit of the fund exceeds the reasonable requirements of the state board for making loans under the provisions of this chapter, the board shall determine the amount of such excess and certify same to the State Controller. Excess funds, so certified, shall revert to the General Fund in the State Treasury. 13105

APPENDIX C

REPORT OF EXECUTIVE OFFICERS' RECOMMENDATIONS FOR CHANGES IN THE WATER POLLUTION CONTROL LAWS

INTRODUCTION

At hearings held on November 4 and 5, 1957, the Subcommittee on Bay and Water Pollution, Assembly Interim Committee on Conservation, Planning and Public Works, requested the State Water Pollution Control Board to review the water pollution control laws and to advise the subcommittee of suggestions for changes in these laws. The state board considered this request at its meeting on November 6 and authorized the chairman to call a meeting of representatives of the state and regional boards to determine whether it would be desirable and feasible for the boards to prepare and submit a joint statement to the Assembly subcommittee. Such a meeting was held on December 3, 1957, and those attending were in unanimous agreement that a joint statement was both desirable and feasible. A task force of the executive officers for the 10 boards was set up to review the Water Pollution Control Act (and related laws) and to draft recommendations for possible legislative changes that would clarify the present statutes or would provide for better administration of the water pollution control program.

A point-by-point outline of the existing legislation was prepared and used by the task force in its deliberations. After considerable exchange of correspondence and after three one-day meetings, the executive officers prepared the following report for submission to each of the 10 boards. It is intended that each regional board and the state board will consider this task force report and, no later than March 17, will submit to the state board office a statement relative to the report. This statement may indicate approval or disapproval of any item in the report and should include any additional comments or recommendations that the individual board wished to make. Following receipt of the statements submitted by each of the boards, a composite statement of recommendations to the Legislature will be prepared, and the full statement from each board will be appended to the composite statement.

Although a large number of suggestions for legislative changes were submitted by the various executive officers, the group agreed that its task force report would include only those recommendations on which a majority (or more) of the group was in agreement.

FUNDAMENTAL PRINCIPLES AND PHILOSOPHY

In their deliberations, the executive officers concurred that the California water pollution control laws and program were based on the following fundamental principles and philosophy:

1. Regional control.
2. Recognition of control by other laws or remedies.
3. Co-ordinated action.
4. Regulation by an agency representing multiple "water quality interests" rather than a single "vested interest."
5. Formulation of long-range plans and policies at the administrative level.

6. Co-operative approach.
7. Recognition that waters of the State can be used for controlled waste disposal.
8. Separation of technical and regulatory functions.
9. Separation of health and economic aspects of water pollution control.
10. Regulation by specifying end results to be achieved.
11. Regulation on the primary basis of case-by-case determinations.
12. Provision for the state board to act when a regional board fails to take or obtain appropriate action.
13. Enforcement by administrative adjudication followed by court injunctive action

The executive officers are in complete accord with the California concept of water pollution control based on the principles enunciated above. However, they feel that the existing laws could be administered more effectively if some of these principles were clarified or expanded. The executive officers also are of the unanimous opinion that the 1949 Water Pollution Control Act has provided a sound and effective procedure for the prevention and abatement of water pollution. To support this opinion, the control boards are preparing a report elaborating upon the accomplishments of the water pollution control program during the past eight years. This progress report will be submitted to the Assembly subcommittee in conjunction with the joint statement on recommended changes in the laws.

RECOMMENDATIONS

A majority or more of the executive officers of the state and regional boards have concurred in the following recommendations for changes in state laws pertaining to water pollution control. The first five items are identified by the principle or philosophy involved. The last two items refer to general powers and duties of the boards.

Co-ordinated Action

Problem One of the principal objectives of the WPC Act is to provide a means for co-ordinating the actions of various state and local agencies in the control of water pollution. To this end, the regional boards are directed to obtain co-ordinated action in matters of water pollution control. In eight years of operating experience, the boards have found that these provisions of the law have not been interpreted uniformly by the various agencies involved. Unless the one agency that represents all interests in the fields of water use and waste disposal, namely the water pollution control board, has the primary responsibility for obtaining co-ordinated action in matters of water pollution control, there will be a return to the former chaotic conditions whereby each affected state agency pursues its own interest—often at the expense of other interests.

Recommendation 1 The executive officers believe that the principles embodied in the following three suggestions are already incorporated or implied in the WPC Act However, it is recommended that the Legislature further emphasize these principles by:

(1) Recognizing and declaring that the state and regional boards are the principal agencies responsible for the control of water pollution in California;
(2) Declaring that these boards are directed to obtain a co-ordinated water pollution control program in this State; and
(3) Requiring that other state agencies co-operate with the water pollution control boards in obtaining co-ordinated action.

* * * * * * *

Problem. One of the potential areas of misunderstanding in co-ordinating water pollution control activities among state agencies relates to the formulation of long-range plans for development and protection of the water resources of the State. The water pollution control boards recognize that, in establishing waste discharge requirements, they must take cognizance of and be guided by any such long-range plans as may be adopted by the Legislature. However, in carrying out the control board's function of co-ordinating water pollution control activities, the executive officers believe that the boards should be consulted during the formulation of these long-range plans.

Recommendation B. That the state agency or agencies responsible for the formulation of long-range plans for development and protection of water resources be directed to collaborate with the water pollution control boards in matters of water quality as it relates to sewage and industrial wastes.

Regulation by an Agency Representing Multiple "Water Quality Interests" Rather Than a Single "Vested Interest"

Problem. Protection and preservation of fish and wildlife and aquatic recreation are among the important problems that the regional boards are faced with. As presently constituted, the regional board membership does not include a person specifically appointed from this field of interest. It is believed that the boards would benefit by appointment of a person from this field.

Recommendation C. That membership of the regional boards be increased by appointment of one person associated with water use for recreation and/or wildlife; provided that the person so selected shall not be connected officially with any federal, state, or local agency having regulatory powers in this field.

Recognition That Waters of the State Can Be Used for Controlled Waste Disposal

Problem. This principle has not been uniformly interpreted by the control boards and by other agencies or organizations concerned with water pollution matters.

Recommendation D. That the law clearly enunciate state policy regarding use of waters of the State for assimilation of wastes.

Provision for State Board to Act When a Regional Board Fails to Take or Obtain Appropriate Action

Problem. This has become one of the least understood principles in the WPC Act. The authority of the state board to act under Section 13025 of the Water Code has been questioned by some of the regional

boards, and conflicting legal opinions have been rendered on this subject. Questions which have arisen cover many aspects of the state board's authority and these include:

(1) As used in Section 13025, what is meant by "appropriate" action?
(2) Can the state board, serving in an appellant capacity, review any and/or all actions of a regional board?
(3) Can a regional board's actions be appealed to the state board by either a water user or the waste discharger (or both)?
(4) What is the extent to which the state board, on its own initiative, may review the actions of a regional board?

These are important considerations as they strike at the primary authority of the regional boards to regulate waste discharges within their respective regions. There has been some concern on the part of the regional boards that it would be possible for a waste discharger to delay for a considerable period the correction of an existing or threatened condition of pollution or nuisance by resorting to appeals to the state board at one or more stages in the pollution regulation and enforcement procedures

Recommendation E. That the Legislature clarify the position and authority of the state board as an appellant body to review the actions of a regional board.

Enforcement by Administrative Adjudication Followed by Court Injunctive Action

Problem. Water Code Sections 13060 to 13063 provide enforcement procedures in cases of pollution or nuisance where a waste discharger fails to comply with waste discharge requirements of a regional board. The procedures which must be followed in obtaining compliance under the present statutes are time consuming. As a result, the enforcement provisions of Sections 13060-63 are not satisfactory when applied to waste discharges from transitory operations such as temporary gravel mining for construction projects, short-term logging operations, accidental or negligent spilling of waste materials, transient food processing or canning operations, deliberate by-passing of waste treatment facilities, etc. This is an area in which the regional boards have been handicapped in carrying out their programs for protecting the beneficial uses of the waters of the State.

Recommendation F. The WPC Act should provide for an immediate and effective enforcement procedure whereby the water pollution control boards could take summary action in handling cases of pollution and/or nuisance which are transitory in nature or are of short duration but periodic in occurrence. Such summary procedure should be in *addition* to the present provisions for administrative adjudication followed by court action and should serve as an *alternate* procedure which the boards could invoke when necessary to deal with situations that cannot be handled effectively under existing enforcement methods.

Water Pollution Control Powers and Duties

Problem Section 13054 of the WPC Act provides that any person proposing a waste discharge must file a report of the proposed discharge

with the appropriate regional board However, there is no legal action specified for enforcement of this provision in instances wherein the discharger fails or refuses to file such a report. The executive officers feel that this is a serious weakness in the law from the standpoint of pollution prevention. They believe that a critical pollution could take place without the regional board's knowledge in such cases of unlawful and unregulated waste discharge.

Recommendation G. That the Act provides for appropriate legal action (e.g, misdemeanor or mandamus) for failure of a discharger to file a report of the proposed waste discharge.

* * * * * * *

Problem. Waste discharges that were in existence at the time the WPC Act was adopted are not covered by the Act unless there is an actual or threatened pollution or nuisance involved. The executive officers are of the opinion that all waste dischargers in the State should be subject to regulation if we are to have a well-rounded program of pollution control.

Recommendation H. That the law be amended to authorize the control boards to prescribe requirements for any existing waste discharge.

* * * * * * *

Problem. While Section 13055 of the WPC Act provides that a regional board may require a discharger to furnish technical reports, there is no provision for legal action in the event the discharger fails or refuses to do so The executive officers believe that this can be a serious handicap to the boards in obtaining information vital to their operations.

Recommendation I. That the act provide for appropriate legal action (e.g., misdemeanor or mandamus) for failure or refusal to submit technical reports requested by a control board.

* * * * *

Problems. Regional boards are not now authorized to require technical reports from waste dischargers operating without discharge requirements.

Recommendation J. That the act specify that regional boards may require submission of technical reports for any existing waste discharge.

Administrative Powers and Duties

Problem. The water pollution control program is a state activity of considerable public interest as it touches upon the quality of waters of the State generally available for beneficial use. Information on the activities of the state and regional boards should therefore be made available to the Legislature and the public on a continuing basis.

Recommendation K. That the Legislature authorize the State Water Pollution Control Board to publish a biennial progress report.

APPENDIX D

STATE OF CALIFORNIA
DEPARTMENT OF NATURAL RESOURCES
SACRAMENTO 14

April 9, 1958

Members, State Water Pollution Control Board

GENTLEMEN: A task force, comprised of representatives of the five departments having ex officio membership on the state board, was formed at the suggestion of the board. Because each of the five departments has a special interest in the water pollution control laws, this task force was created so that the state board would have the benefit of the thinking of the staffs of these departments during the preparation of a statement to the Assembly Subcommittee on Bay and Water Pollution.

After meeting on four occasions, at which time consideration was given to many suggestions offered by the various participants, the task force prepared the attached report titled "Recommendations of Departmental Task Force."

The report does not contain all the suggestions offered by the participants, nor was there unanimous agreement on all recommendations included in the report. It should be noted that these recommendations reflect only the thinking of the individuals represented on the task force, and do not necessarily reflect the views of any single department.

Sincerely yours,

(SIGNED) DEWITT NELSON, Director

RECOMMENDATIONS OF DEPARTMENTAL TASK FORCE

A. STATEWIDE BASIC POLICY

Recommendation 1

Legislature should establish a broad statement of policy and objectives and direct the state board to establish in keeping with this broad statement a more detailed statement of policy within which the regional boards would make definitive policy to fit local conditions.

Reason: Although it is acknowledged that the water pollution control program must be adapted to the peculiar needs of each region, it is equally true that it must be based on a statewide viewpoint. Increasingly with the development of the California Water Plan, waters from one region will be transported to another region and the policies in the two regions must, therefore, be compatible Furthermore, recreational use of waters brings together people from all parts of the State, and a statewide policy is needed to protect the interests of this nonresident population.

Recommendation 2

Legislative statement of policy and objectives should enunciate the primary objective that the quality of waters of the State be maintained suitable for all beneficial uses, both existing and foreseeable.

Reason: As the State continues to develop and its population continues to increase not only will all available water be put to use, but multiple uses will be made of the same waters. It seems inevitable that demands for water recreation will continue to grow explosively and

all waters both fresh and salt which are in attractive settings will be in demand for recreational purposes. This will include particularly the bays, estuaries, and tidal sloughs, many of which are not now intensively used for recreation.

Recommendation 3

Legislative statement of policy and objectives should clearly authorize incorporation of an adequate margin of safety in all waste discharge requirements.

Reason: The statewide policy should embody the principle of the maintaining of a realistic factor of safety between the loadings discharged to waters and their assimilative capacity. This factor of safety is necessary not only to provide for future developments without the necessity of tightening up the requirements for a discharge once the treatment plant has been built, but also to compensate for the fact that treatment works are usually designed for average rather than extreme conditions.

Recommendation 4

Legislative statement of policy and objectives should enunciate the principle that whereas some use of the waters of the State for receiving wastes is legitimate and necessary, the maximum benefit to the people of the State requires that such use be so limited and that wastes be so treated before discharge as to adequately protect the public health and all of the beneficial uses of such waters.

Reason: Some concept of priority is inescapable if impasses are to be avoided where the desire to minimize the cost of artificial treatment of sewage and industrial waste runs counter to the desire to use waters for such beneficial uses as domestic water supply, water sports, irrigation and propagation of fish life. The Legislature has already established a priority where domestic and agricultural use of water are concerned (Sec. 100 Water Code), but has not indicated how a conflict between use for other beneficial purposes and for receiving wastes shall be resolved.

Recommendation 5

Legislative statement of policy and objectives should declare that no existing disposal of wastes to the waters of the State shall preclude future rights to use such waters for beneficial purposes involving high-quality requirements.

Reason: With the development of the California Water Plan, maximum beneficial use will be made of all waters of the State. The above recommendation is made in light of the riparian principle that waters used by a landowner must be returned to the stream undiminished in quantity and unimpaired in quality. The recommendation would provide a remedy in case of a present use, the return water from which may cause impairment of a downstream water for future uses.

Recommendation 6

Legislative statement of policy and objectives should provide that regional boards may require a discharger to show necessity for a discharge at a given point.

Reason: In establishing requirements under the present statute, regional boards have assumed that if a discharger proposes a discharge anywhere in the State, the regional board has no right to question the proposal but is obliged to set requirements even though the discharge to waters may be a matter of mere convenience to the discharger. This is true even though a discharge conforming with requirements may be detrimental to beneficial uses In line with the analysis given under Recommendation 4, in such cases the regional board should be able to prevent such discharge unless a showing of necessity can be made by the proponent.

Recommendation 7

Legislative statement of policy and objectives should provide that regional boards may specify certain conditions and locations where no direct discharge of wastes may be permitted.

Reason: Nowhere in the world is the direct use of sewage effluent for domestic water supply purposes condoned and yet this is the practical result if discharges of sewage effluent are permitted directly to streams immediately above domestic water diversions, to lakes near water intakes or to mountain streams from which people drink directly or secure their drinking water supply. Yet the present statute, in lack of a policy statement to the contrary, makes it doubtful whether a regional board may actually prevent discharges in such hazardous situations.

Recommendation 8

Legislative statement of policy and objectives should provide that regional boards may require that facilities be provided by a discharger to meet emergency situations, such as plant failure, which may be expected to occur.

Reason: Experience has shown that all plants for the treatment of sewage or industrial wastes have occasional days of failure or necessary shutdown. Even if this occurs only once in two or three years for a given plant, the large number of plants in the State means that such failures will occur somewhere every day or so. Furthermore, the failure or bypassing of such plants may cause catastrophic results from a public health or fish-life point of view. The obvious remedy is the provision of emergency facilities and yet at the present time regional boards do not have authority to require the provision of such facilities.

Recommendation 9

Statutes should be amended to redefine "pollution" so as to eliminate the qualifying word "unreasonably." A suggested definition is the following: "Pollution means the alteration of the physical, chemical, or biological properties of a water of the State by the discharge of any liquid, gaseous, or solid substance so as to impair or destroy the usefulness of such water for beneficial purposes."

Reason: It is a cardinal principle of law enforcement that laws be administered reasonably. This is true whether the specific statute so states or not. The exercise of judgment as to reasonableness, however, must be the responsibility of the administrative agency and not the

regulated party. The present wording of the definition of pollution is an invitation to argument between the regional board and the applicant with the burden of proof always on the regional board and with the applicant always given the benefit of doubt.

Recommendation 10

Statute should be amended to broaden the definition of "nuisance" and as a minimum eliminate the word "unreasonable" from the present definition.

Reason: "Nuisance" has a clear and well understood meaning in law. It is a subjective result usually described as "interference with the comfortable enjoyment of life or property." It is, therefore, unrealistic to restrict the meaning of the word nuisance by saying that it must result from an "unreasonable" practice. No practice of waste discharge is unreasonable in the eyes of the discharger and conversely no nuisance is reasonable in the eyes of the offended party. The state and local health departments are frequently called upon to abate actual nuisances resulting from the discharge of sewage or industrial waste which under the present restricted definition in question is not a "nuisance."

Recommendation 11

Statute should be amended so as to provide for control of "threatened contamination."

Reason: The keynote of a successful and efficient control program, whether related to water pollution, air pollution, or other environmental hazards is prevention. Experience has repeatedly proven that prevention is better and cheaper than abatement. The Legislature has recognized this principle with respect to "pollution" by providing for the taking of corrective action in cases of "threatened pollution," but has restricted action on conditions of public health concern to actual "contamination."

Recommendation 12

Statute should be amended to increase regional board membership to include one person representing water use for recreation and wildlife purposes.

Reason: The omission of representation from two beneficial use fields in the composition of regional boards can lead to insufficient attention to these concerns in regional board actions. The proposal would bring regional board composition more into harmony with that of the state board Public health is not designated for representation on regional boards but the practice in most regional boards has been to include a health officer on the board as a representative of county government

B. ADMINISTRATIVE POWERS AND PROCEDURES

Recommendation 13

Statute should be amended to authorize regional boards to establish requirements for all discharges, existing or proposed, at the discretion of the board, and to provide penalty for failure of a discharger to file report of proposed waste discharge.

Reason: At the time the statute was enacted it was intended that all discharges of sewage and industrial waste (except certain designated very small discharges) be covered by requirements. This legislative intent should be made more evident in the statute.

Recommendation 14

Statute should be amended to authorize regional boards to require amended "requirements" when character or location of discharge is to be changed or its volume increased.

Reason: Most statutes providing for the setting of requirements specifically provide procedure for dealing with changes and enlargements. This obviously was the legislative intent with this statute and should be made evident in the statute itself.

Recommendation 15

Statute should be amended to make compliance with "requirements" mandatory and to provide that failure to comply with "requirements" constitutes a violation of the statute.

Reason: The procedures followed in the establishment of waste discharge requirements are designed to completely protect the interest of the discharger and to enlist the best technical talent available in the State in insuring appropriateness of the requirements. Once the discharge requirements have been arrived at in this manner, they should constitute the law, as far as the discharger is concerned The statute should be amended to provide that a discharger may be enjoined from discharges in violation of requirements.

Recommendation 16

Statute should be amended so as to authorize regional boards to exercise injunctive action upon dischargers who fail to comply with "requirements."

Reason: The procedures followed in the establishment of waste discharge requirements are designed to completely protect the interest of the discharger and to enlist the best technical talent available in the State in insuring appropriateness of the requirements. Once the discharge requirements have been arrived at in this manner, they should constitute the law, as far as the discharger is concerned. The statute should be amended to provide that a discharger may be enjoined from discharge in violation of requirements.

Recommendation 17

Statute should be amended to specify that regional boards may require submission by a discharger of technical reports for any existing waste discharge and provide penalty or mandate remedy for failure of discharger to submit such reports when requested by regional board.

Reason: One of the most expensive and burdensome tasks involved in water pollution control is surveillance. In part, this can be accomplished by requiring the discharger to submit technical information and to monitor his discharges. Usually the discharger is already in possession of the technical information so that no heavy burden is involved. Monitoring may be expensive but is a legitimate burden to be placed

on the discharger if discharge of wastes is considered to be in the category of a "privileged" use of resources of the State.

Recommendation 18

Statute should be amended to authorize state board to publish a biennial progress report.

Reason: Systematic documentation of activities and results in water pollution so that the information is readily available to persons having a legitimate interest is an inescapable governmental responsibility and the state board is the logical agency to perform this function.

APPENDIX E

SUMMARY OF ACTIONS TAKEN BY THE STATE WATER POLLUTION CONTROL BOARD ON RECOMMENDATIONS FOR CHANGES IN THE WATER POLLUTION CONTROL LAWS

On March 5, 1958, the State Water Pollution Control Board met for the purpose of considering recommendations for changes in the water pollution control laws. Among the suggested legislative changes studied by the board were those proposed in the reports of the two task force groups formed at the suggestion of the state board for the purpose of aiding the state and regional boards in their deliberations on this subject. The reports of these task force groups are as follows:

1. February 26, 1958, Report of Executive Officers' Recommendations for Changes in the Water Pollution Control Laws. (This report contains 11 recommendations drafted by the executive officers of the state and nine regional boards.)
2. February 25, 1958, Recommendations of Departmental Task Force. (This report contains 18 recommendations drafted by representatives of the five state departments having ex officio members on the state board).

After reviewing and evaluating these reports and other pertinent information presented by its staff and legal counsel, the board took the actions summarized in the following sections

FUNDAMENTAL PRINCIPLES

The board agreed with and endorsed the fundamental principles outlined in the executive officers' report as being the principles upon which the California water pollution control laws and program are based Although believing that the existing laws could be administered more effectively if some of these principles were clarified or expanded by the Legislature, the board was of the opinion that basically the 1949 Water Pollution Control Act has provided a sound and effective procedure for the prevention and abatement of water pollution.

RECOMMENDED CHANGES ENDORSED BY BOARD

The state board endorsed the following recommendations for changes in the water pollution control laws and directed that these recommendations be submitted to the Subcommittee on Bay and Water Pollution, Assembly Interim Committee on Conservation, Planning and Public Works:

Recommendation No. 1

That membership of the regional water pollution control boards be increased by the appointment of one person associated with water use for both recreation and wildlife; provided, however, that the person so selected shall not be connected officially with any federal, state, or local agency having regulatory powers in this field.

Comments: Protection and preservation of fishery resources and aquatic recreation are among the more important problems that the regional boards are faced with. As presently constituted, regional board

membership does not include a person specifically appointed from this field of interest. The state board believes that the water pollution control program would benefit by appointment of a person from this field. (This recommendation is similar to executive officers' recommendation C and departmental task force recommendation 12.)

Recommendation No. 2

That the Water Pollution Control Act declare that no disposal of wastes to the waters of the State shall preclude future use of such waters for other beneficial purposes.

Comments: Although the water pollution control boards have operated on the assumption that this principle is implied in the present law, it is the opinion of the state board that the law would be strengthened by the recommended amendment. (Similar to departmental task force recommendation 5.)

Recommendation No. 3

That the Water Pollution Control Act provide for an immediate and effective enforcement procedure whereby the water pollution control boards could take summary action in handling cases of pollution or nuisance which are transitory in nature or are of short duration but periodic in occurrence. Such summary procedure should be *in addition* to the present provisions for administrative adjudication followed by court action and should serve as an *alternate* procedure which the boards could invoke when necessary to deal with situations that cannot be handled effectively under existing enforcement methods

Comments: Water Code Sections 13060 to 13063 provide enforcement procedures in cases of pollution or nuisance where a waste discharger fails to comply with waste discharge requirements of a regional board The procedures which must be followed in obtaining compliance under the present statutes are time-consuming. As a result, the enforcement provisions of Sections 13060-63 are not satisfactory when applied to waste discharges from transitory operations such as temporary gravel mining for construction projects, short-term logging operation, accidental or negligent spilling of waste materials, transient food processing or canning operations, deliberate bypassing of waste treatment facilities, etc. This is an area in which the regional boards have been handicapped in carrying out their programs for protecting the beneficial uses of the waters of the State. (This is recommendation F of the executive officers' report. Note that the changes suggested in this recommendation may be found unnecessary if the following recommendation, No. 4, became law.)

Recommendation No. 4

That the Water Pollution Control Act be amended to: (a) make compliance with waste discharge requirements mandatory, (b) provide that failure to comply with such requirements constitutes a violation of the act, and (c) authorize the water pollution control boards to initiate injunctive action against dischargers who fail to comply with such requirements.

Comments: This proposed legislative change is similar to recommendations 15 and 16 in the departmental task force report. The state board

endorsed this proposal in the belief that it might provide a more effective enforcement procedure than presently authorized under Water Code Sections 13060-63 However, the board wishes to make clear to the Assembly subcommittee the fact that the present enforcement procedure has never been fully tried (only one case has had an administrative hearing, and it did not have to be certified to the district attorney for court action) The board also wishes to point out that the recommended enforcement procedure would require a formal hearing at the time requirements were prescribed if the waste discharger desired to be heard and to submit evidence in opposition to the proposed requirements In other words, unless the discharger waived his right to be heard in formal hearing under the Administrative Procedure Act, such a hearing would have to be held by the regional board before the requirements were adopted

Recommendation No. 5

That the Water Pollution Control Act provide for appropriate legal action (e g., misdemeanor or mandatory injunction) against a waste discharger who failed to file a report of proposed discharge after being requested to do so by a regional board.

Comments: Water Code Section 13054 provides that any person proposing a waste discharge must file a report with the appropriate regional board However, there is no legal action specified for enforcement of this provision in instances where the discharger fails or refuses to file a report. (Similar to executive officers' recommendation G and departmental task force recommendation 13)

Recommendation No. 6

That the law be amended to authorize the control boards to prescribe requirements for any existing discharge.

Comments: Waste discharges in existence at the time the Water Pollution Control Act was adopted are not covered by the act unless there is an actual or threatened condition of pollution or nuisance involved (Similar to executive officers' recommendation H and departmental task force recommendation 13)

Recommendation No. 7

That the Water Pollution Control Act provide for appropriate legal action (e g., misdemeanor or mandatory injunction) for failure or refusal to submit technical reports requested by a control board.

Comments: While Water Code Section 13055 provides that a regional board may require a discharger to furnish technical reports, there is no provision for legal action in event of noncompliance. (Similar to executive officers' recommendation I and departmental task force recommendation 17.)

Recommendation No. 8

That the law specify that the regional boards may require submission of technical reports for any existing waste discharge.

Comments: At present, the boards are not authorized to require submission of technical reports from waste dischargers operating without discharge requirements. (Similar to executive officers' recommendation J and departmental task force recommendation 17.)

Recommendation No. 9

That the statutes authorize the State Water Pollution Control Board to publish biennial progress reports.

Comments: Water pollution control program is a state activity of considerable public interest as it touches upon the quality of waters of the State generally available for beneficial use. Information on the activities of the state and regional boards should therefore be made available to the Legislature and the public on a continuing basis. (Similar to executive officers' recommendation K and departmental task force recommendation 18.)

PROPOSED RECOMMENDATIONS NOT ENDORSED BY BOARD

In addition to the foregoing recommendations that were endorsed by the state board, the following proposals for changes in the water pollution control laws were considered but *not endorsed* by the board. (The lettered items refer to recommendations appearing in the executive officers' report and the numbered items refer to recommendations of the departmental task force.)

Executive Officers' Recommendations

A. (Recommendation that the law further emphasize the concept of co-ordinated action.) Not endorsed because the board believes that the principles embodied in the proposed recommendation are already incorporated in the law and that there is no need to further emphasize these principles.

B. (Recommendation that agencies responsible for formulation of plans for water resource development be directed to collaborate with the control boards.) Not endorsed, as the board is of the opinion that this problem can be handled administratively.

D. (Recommendation that the law clearly enunciate policy for use of waters to assimilate wastes.) Not endorsed for the reason that the board believes the present law clearly states this principle.

E. (Recommendation that the Legislature clarify the authority of the state board to review actions of a regional board.) Not endorsed because the board feels that there has been no proven necessity for clarification of this principle.

Departmental Task Force Recommendations

1. (Recommendation that the Legislature establish a broad statement of policy and objectives and direct the state board to formulate a more detailed statement of policy.) The state board took no action on this proposal.

2. (Recommendation that legislative statement of policy should enunciate, as a primary objective, that quality of the State's waters be maintained suitable for all existing and foreseeable beneficial uses.) Not endorsed, as the board believes that this would be contradictory to the philosophy expressed in the present law.

3. (Recommendation that law authorize incorporation of an adequate margin of safety in all waste discharge requirements.) Not endorsed for the reason that the board did not feel such a provision was necessary and, if adopted, would be difficult to interpret.

4. (Recommendation that legislative statement of policy should limit use of waters for receiving wastes by placing very low priority on such use.) This proposal is similar to item 2 and was not endorsed for the same reasons.

6. (Recommendation that regional boards be authorized to require a discharger to show necessity for discharging wastes at a given location.) Not endorsed since it conflicts with the principle expressed in the present law of regulating wastes by specifying only end results to be achieved.

7. (Recommendation that regional boards be authorized to specify conditions and locations where no direct discharge of wastes may be permitted.) Not endorsed for the reason stated in item 6 above.

8. (Recommendation that regional boards be authorized to require discharger to provide sewerage facilities to meet emergency situations.) Not endorsed for the reason stated in item 6 above.

9. (Recommendation that the word "unreasonably" be deleted from the definition of "pollution".) Not endorsed because the board believes that such an amendment would nullify one of the basic concepts of the present law.

10. (Recommendation that the definition of "nuisance" be broadened and that the word "unreasonable" be deleted from the present definition.) Not endorsed for the reason stated in item 9 (above) and because the board feels that the Legislature had good reason to limit the definition of nuisance as it relates to water pollution control.

11. (Recommendation that law be amended to provide for "threatened contamination".) The board took no action on this proposal.

14. (Recommendation that regional boards be authorized to require amended waste discharge requirements when conditions change.) Not endorsed, since the board is of the opinion that the regional boards now have this authority and that the proposal involves an administrative matter which the boards are handling satisfactorily.

APPENDIX F

EXECUTIVE OFFICERS' RECOMMENDATIONS FOR CHANGES IN WPC LAWS

STATE OF CALIFORNIA
INTER-DEPARTMENTAL COMMUNICATION

Date: March 7, 1958

To: PAUL R. BONDERSON, Executive Officer
State Water Pollution Control Board

From: NORTH COASTAL REGIONAL WATER POLLUTION CONTROL BOARD
P. O. Box 1436, Santa Rosa

Be advised that this board at its meeting held in Ukiah on February 28, 1958, discussed in detail the Report of Executive Officers' Recommendations for Changes in the Water Pollution Control Laws.

It was the consensus of the board that approval be given by this region to the report with the following modifications:

1. *On page 3, Recommendation (1):*
   This board recommends that "state and regional" be stricken and that "water pollution control" be substituted. The recommendation reading:
   (1) Recognizing and declaring that water pollution control boards are the principal agencies responsible for the control of water pollution in California.
2. *Page 4, Additional Member to Regional Boards:*
   This board wishes to go on record stating that adequate consideration has always been extended to all segments including recreation and wildlife. However, if it will assist in a more equitable administration of this law, an extra member is recommended.
3. *Page 5, Recommendation:*
   With reference to the Legislature clarifying the position and authority of the state board as an appellate body, etc, this board feels that the recommendation is not explicit enough in so far as informing the Legislature regarding the clarification needed.
   It is the opinion of this board that an appeal from the regional board's action should be to the superior court in the county where the circumstances are best known, further strengthening regional board control.

With reference to this board's action relative to the departmental task force recommendations for suggested changes, our board felt that the departments had a perfect right to express their suggestions for changes the same as regional boards. Therefore, no action was taken on the departmental task force report, only on the executive officers' report because both reports will be submitted to the Meyers committee.

(Signed) WILLIAM G. SHACKLETON
Executive Officer

APPENDIX G

STATE OF CALIFORNIA
REGIONAL WATER POLLUTION CONTROL BOARD
SAN FRANCISCO BAY REGION
OAKLAND 12, CALIFORNIA, March 28, 1958

State Water Pollution Control Board
SACRAMENTO 14, CALIFORNIA

GENTLEMEN: It is the feeling of this regional board that the Water Pollution Control Act of 1949, as amended to date, has provided the method by which the State Water Pollution Control Board and the regional water pollution control boards have satisfactorily and equitably fulfilled the legislative intent imposed by this act.

It is our feeling that, with eight years of experience behind us, with the great progress that has been made in the control of water pollution, and with the assurance of the protection of the beneficial uses of the waters of the State to the people, any marked changes in the act at this time might deter the effectiveness of the operating programs thus far established.

We have reviewed the suggested changes in the act proposed by the executive officers of the regional boards and believe that a continuation of the activities of regional water pollution control boards under the present act, with the present balance of authority of the board on the one hand, and protection of the individuals and agencies subject to control by the board on the other hand, is proper.

However, should the Legislature in its wisdom determine that some changes are essential, we offer our assistance in consulting with the Legislature and its committees in their deliberations.

Very truly yours,

(Signed) JOHN S. LONGWELL, Chairman

APPENDIX H

STATE OF CALIFORNIA
REGIONAL WATER POLLUTION CONTROL BOARD
CENTRAL COASTAL REGION
SAN LUIS OBISPO, CALIFORNIA, March 31, 1958

Subcommittee on Bay and Water Pollution
SACRAMENTO 14, CALIFORNIA

Via: State Water Pollution Control Board

GENTLEMEN: At a meeting held March 7, 1958, the Central Coastal Regional Water Pollution Control Board met to consider recommendations to the committee for changes in the California water pollution control laws. The board, in its deliberations, considered the reports of the executive officers' task force and the departmental task force and other relevent material

The board's recommendations and comments on the subject are given on the attached pages. In accordance with procedures agreed to by the regional and state boards, we are transmitting this material to you via the State Water Pollution Control Board and we understand that it will be included as an appendix to the report to your committee.

As appointees of the Governor in the Executive Branch of our State Government, we wish to express our sincere appreciation for this opportunity to assist the Legislature. This board is pleased to offer its services to your committee in any manner which would further improve the existing sound and effective program for the prevention and abatement of water pollution, with which we are so vitally concerned.

Very truly yours,

(Signed) A. L. FERRINI, Chairman

SUMMARY OF ACTIONS TAKEN BY THE CENTRAL COASTAL REGIONAL WATER POLLUTION CONTROL BOARD ON RECOMMENDATIONS FOR CHANGES IN THE WATER POLLUTION CONTROL LAWS

March 7, 1958

The Central Coastal Board endorsed the 13 fundamental principles as outlined in the Executive Officers' Task Force Report as being the bases upon which the water pollution control laws and program are established. The board believes that the present law is an effective means for controlling water pollution in California. With some modifications and clarification, the law could be administered more effectively.

BOARD ACTION ON EXECUTIVE OFFICERS' TASK FORCE REPORT

(Lettered items refer to Executive Officers' Task Force Report.)

(A) Endorsed. *Comment:* From operating experience, the board feels that there is further need for emphasizing the principles embodied in this recommendation, although they are implied in the Water Pollution Control Act.

(B) Not endorsed. *Comment:* The board feels this matter can be adequately handled on an administrative basis.

(C) Not endorsed. *Comment:* The board feels that within the present classifications, there is ample latitude to appoint a general member associated with water use for recreation and wildlife.

(D) Not endorsed. *Comment:* The board believes this principle could be further emphasized in state board policy.

(E) Endorsed. *Comment:* There has been no problem in this region; however, in view of different interpretations, clarification of this section would be helpful to the overall state program.

(F) Endorsed. *Comment:* On a number of occasions, the board felt that it could have acted more effectively if it were empowered to use some type of immediate enforcement procedure in handling pollution or nuisance of the transitory type. Such a procedure would be in addition to the present administrative adjudication procedings and would serve as an alternate method of enforcement.

(G), (H), (I), (J), and (K) All endorsed. *Comment:* The board concurs in these recommendations for the reasons stated in the Executive Officers' Task Force Report.

BOARD ACTION ON DEPARTMENTAL TASK FORCE REPORT

(Numbered items refer to departmental task force report.)

(1) to (10), inclusive, and (14). Board took no action on these recommendations.

(11) Not endorsed. *Comment:* The board opposes this recommendation because nearly all domestic sewage discharges and many industrial waste discharges could possibly be considered to be threatened contamination and, therefore, subject to direct control by health agencies. This would be in *addition* to the responsibility for control of such discharges, which the pollution control boards now have. We can see no useful purpose for the dual responsibility and feel that the resulting confusion would seriously hinder the pollution control program.

(12) Not endorsed. (Similar to Recommendation (C) of executive officers' report.)

(13) Endorsed. (Similar to Recommendations (G) and (H) of executive officers' report.)

(15) and (16). Not endorsed. *Comment:* These recommendations are considered by the board to be contrary to the basic philosophy of the act that provides for enforcement by administrative adjudication followed by injunctive action, which has been endorsed by the board.

(17) Endorsed. (Similar to Recommendations (I) and (J) of the executive officers' report.)

(18) Endorsed. (Similar to Recommendation (K) of the executive officers' report.)

It was agreed by the board that the above comments and recommendations should be submitted to the State Water Pollution Control Board for inclusion in the report to the Subcommittee on Bay and Water Pollution of the Assembly Interim Committee on Conservation, Planning, and Public Works.

Other sections of the laws concerning water pollution control were discussed; however, the board has no further recommendations for legislative change to offer at this time.

APPENDIX I

BOARD ACTIONS ON EXECUTIVE OFFICERS' REPORT AND DEPARTMENTAL TASK FORCE REPORT RE CHANGES IN WATER POLLUTION CONTROL ACT

STATE OF CALIFORNIA
LOS ANGELES 13, CALIFORNIA
March 14, 1958

Inter-Departmental Communication

To: STATE WATER POLLUTION CONTROL BOARD
Sacramento 14, California
Attn: PAUL R. BONDERSON, Executive Officer

From: REGIONAL WATER POLLUTION CONTROL BOARD No. 4
Los Angeles Region—Room 504
541 South Spring Street

This Regional Water Pollution Control Board at a special meeting held on Thursday, March 13, 1958, reviewed the subject reports and unanimously took the actions indicated in the attached summary.

(SIGNED) LINNE C. LARSON, Executive Officer

STATE OF CALIFORNIA
REGIONAL WATER POLLUTION CONTROL BOARD No. 4
LOS ANGELES REGION

SUMMARY OF ACTIONS TAKEN BY THE BOARD AT ITS SPECIAL MEETING HELD ON MARCH 13, 1958, RELATIVE TO THE REPORTS OF THE EXECUTIVE OFFICERS AND DEPARTMENTAL TASK FORCE ON RECOMMENDATIONS FOR CHANGES IN THE WATER POLLUTION CONTROL ACT

Board Actions on Executive Officers' Report

Fundamental Principles and Philosophy. The board endorsed the 13 fundamental principles as outlined in the executive officers' report as being the bases upon which the water pollution control laws and program are established. The board is in complete accord with the California concept of water pollution control based on the principles enunciated above, and the board is of the unanimous opinion that the 1949 Water Pollution Control Act has provided an effective means of controlling water pollution in California. The board is of the opinion, however, that existing laws could be administered more effectively if some of these principles were clarified or expanded.

(This report contains 11 recommendations. For purposes of identification these have been lettered "A" through "K," with recommendation "A" appearing on page 3 of the report, and "K" being the last recommendation on page 7.)

(A) Endorsed.

(B) Not endorsed. The board is of the opinion that this problem can be handled administratively.

(C) Not endorsed. The board feels that the present city and county representatives can take care of the recreation and wildlife interests. The board also feels that a six-man board is undesirable.

(D) Not endorsed. The board feels that these basic principles are already enunciated in the present Water Pollution Control Act.

(E) Endorsed. With further recommendation that in line with, and to strengthen the concept of regional control, the statutes should be clarified to provide that the State Water Pollution Control Board shall not be deemed as an appeal board when a regional board has, in fact, taken action pursuant to the provisions of Articles 2 and 3, Chapter 4, of the Water Code, but any appeal from such actions of a regional board should be made direct to an appropriate court of law.

(F), (G), (H), (I), (J), and (K) all endorsed.

Board Actions on Departmental Task Force Report

The board did not endorse recommendations 2, 3, 4, 6, 7, 9, 10, 11, 12, and 14. On the remaining recommendations of this report the board took the following actions:

(1) No action.

(5) Endorsed. With the understanding that this recommendation be re-worded as follows: "That the Water Pollution Control Act declare that no disposal of wastes to the waters of the State shall preclude future use of such waters for other beneficial uses."

(8) Not endorsed. It is the opinion of the board that the present law has sufficient provisions to control emergencies.

(13) Endorsed.

(15) and (16) Not endorsed. It is the opinion of this board that these recommendations are contrary to the basic philosophy of the Water Pollution Control Act which this board has endorsed, and which provides for enforcement by administrative adjudication followed by injunctive action.

(17) Endorsed.

(18) Endorsed.

Other Actions by the Board

1. The board directed that the above recommendations on the two reports (executive officers' and departmental task force) be forwarded to the Assembly Subcommittee on Bay and Water Pollution through the State Water Pollution Control Board
2. The board took action to submit additional recommendations directly to the subcommittee.

APPENDIX J

STATE OF CALIFORNIA
REGIONAL WATER POLLUTION CONTROL BOARD
CENTRAL VALLEY REGION

March 17, 1958

State Water Pollution Control Board
Sacramento, California

GENTLEMEN: At its last regular meeting on March 13, 1958, the Central Valley Regional Water Pollution Control Board considered the matter of revisions to the present water pollution control acts as requested by the Assembly Interim Subcommittee on Bay and Water Pollution. After considering the matter at length, the board took the following action:

1. This regional board subscribes to the fundamental principles and philosophy of the present act. It considered only those aspects of the present acts which it firmly believes will improve and strengthen the operation and administration of water pollution control in the State of California.

2. In the matter of co-ordinating the actions of all agencies having responsibilities in the control of water pollution, the regional board affirmed its belief in the clarity of Section 13000 of the State Water Code and felt that there was no need for further clarification on this point.

3. It appears to this regional board to be both desirable and politic to give direct recognition to the amazing development of water use for recreation and wildlife preservation. The ramifications and economic impact of the recreation and sports interests in recent years has removed this water use category from an incidental position to the classification of a major industry which transcends mere personal interest in these matters. This board believes that the act should be amended to provide direct representation on the water pollution control boards by the addition of one member to represent both recreation and wildlife conservation interests.

4. While there has been agitation in some quarters to spell out in the law the long-range plans and policies to be followed in water pollution control throughout the State, this regional board does not believe this to be necessary. This board feels that Sections 13022 and 13052(e) of the water code are sufficient and that the development of such plans and policies on the state and regional levels is an administrative matter which can be carried out under the present provisions of the law.

5. There has been some misunderstanding on the intent of the present statutes in regard to the recognition of waste disposal as a water use. This regional board believes that the present act, by implication, recognizes this water use and that the law is clear on this point. This board has no recommendations in this regard as it believes this is a matter embodied in the fundamental principles and philosophy of the California water pollution control statutes.

6. It has been proposed that the present law be amended so that health authorities could act in cases where threatened contaminations were suspected. This regional board does not believe this to be necessary

and further believes that the adoption of such an amendment would make co-ordinated action by the regional boards in matters of water pollution control more difficult.

7 Proposals have been made for amendments to the present law to empower the regional boards to forbid waste discharges in certain areas and to enable them to prescribe treatment facilities to handle emergency or intermittent waste discharges. This board has no recommendations in this regard as it believes that, here again, the fundamental principles and philosophy of the present water pollution control statutes are involved.

8. A number of the regional water pollution control boards feel that the provisions of the present statutes are not clear as to the actions to be taken by the State Water Pollution Control Board when a regional board fails to take or obtain appropriate action. The Central Valley Regional Board has no recommendation for change in the present provisions of the law on this point.

9. The experience of this regional board has demonstrated the need for an *additional* enforcement procedure which would permit the regional boards to take summary action in cases of transitory pollution or nuisance. Such procedure should be *in addition* to the present provisions for administrative adjudication followed by court action and should serve as an alternate procedure which the board could invoke when necessary to deal with situations which cannot be handled effectively under existing enforcement methods This regional board recommends that the present act be amended to provide such an additional enforcement procedure to handle transitory pollution and nuisance.

10 This regional board believes that the water pollution control program is an activity of considerable state-wide public interest It further believes that information on the activities and accomplishments in maintaining water quality throughout the State in a condition acceptable for beneficial use should be made readily available to the general public. The Central Valley Regional Board, therefore, recommends that the law be amended so that the State Water Pollution Control Board will be authorized to publish a biennial progress report

11. In the past several unsuccessful attempts have been made to remove the statutory limitation on the salary of executive officers It is suggested that removal of this limitation be considered in any changes proposed by the committee

12. It is the recommendation of this regional board that the operations of the regional boards would be improved by amendments to the present act which would:

(a) Authorize the regional boards to establish waste discharge requirements for any existing waste discharge;
(b) Authorize the regional boards to request technical reports on existing waste discharges;
(c) Provide penalties for failure of a discharger to file a discharge report when requested to do so;
(d) Provide penalties for failure of a discharger to provide technical reports on his waste discharge when requested to do so.

13. Under present conditions the regional boards receive, file, and distribute well drillers reports (Section 7076). In this region little or no use is made of the reports but the number received is so large that additional help, working at night, is necessary to process them at a cost of approximately $1,200 per year. A substantial saving would be realized if this regional board were relieved of this responsibility.

The above recommendations and comments are respectfully submitted for your consideration.

Very truly yours,

CENTRAL VALLEY REGIONAL WATER POLLUTION CONTROL BOARD

(Signed) CLIFFORD E. PLUMMER, Chairman

APPENDIX K

ACTION TAKEN BY REGIONAL BOARD NO. 6 PERTAINING TO EXECUTIVE OFFICERS' AND DEPARTMENTAL TASK FORCE RECOMMENDATIONS FOR CHANGES IN WPC LAWS

STATE OF CALIFORNIA WATER POLLUTION CONTROL BOARD

MEMORANDUM

Date: March 13, 1958

To: MR. PAUL R. BONDERSON, *Executive Officer*
State Water Pollution Control Board

From: J. T. LEGGETT, *Executive Officer*
Lahontan Region No. 6
407 W. Line Street, Bishop
Phone: 6161

The Lahontan Regional Water Pollution Control Board met on March 12, 1958, and reviewed the Executive Officers' and Departmental Task Force's recommendations for changes in the water pollution control laws.

It was moved, seconded, and carried, that this board concurs with the action taken by the State Water Pollution Control Board at its meeting on March 5, 1958, relative to the Report of Executive Officers' Recommendations for Changes in the Water Pollution Control Laws.

In addition, the board concurred with the State Water Pollution Control Board's action on the Departmental Task Force's recommendations for changes in the water pollution control laws.

J. T. LEGGETT

APPENDIX L

REGIONAL BOARD ACTION REGARDING REPORT OF EXECUTIVE OFFICERS' RECOMMENDATION FOR CHANGES IN WATER POLLUTION CONTROL LAWS

Date: March 14, 1958

To: STATE WATER POLLUTION CONTROL BOARD
Sacramento
PAUL R. BONDERSON, *Executive Officer*

From: COLORADO RIVER BASIN REGIONAL WATER POLLUTION CONTROL BOARD
82–380 Miles Ave., Indio, Calif.

At its meeting of March 13, 1958, this regional board approved, as written, the entire set of recommendations of the executive officers for changes in the water pollution control laws.

One item of concern to the board was that the right of a discharger to appeal from a decision of a regional board to the courts should not be tampered with.

(Signed) T. H. DONOVAN, *Executive Officer*

APPENDIX M

To: STATE WATER POLLUTION CONTROL BOARD
Attention: Mr. Paul R. Bonderson

From: SANTA ANA REGIONAL WATER POLLUTION CONTROL BOARD
Room 306A, 3691 Main Street,
Riverside, California

Date: March 14, 1958

ACTIONS TAKEN BY THE SANTA ANA REGIONAL WATER POLLUTION CONTROL BOARD SPECIAL MEETING, MARCH 14, 1958

The following actions were taken at the Special Board Meeting of the Santa Ana Regional Water Pollution Control Board:

FUNDAMENTAL PRINCIPLES AND PHILOSOPHY

The board endorsed the 13 points with one reservation: point No 9 "Separation of Health and Economic Aspects of Water Pollution Control" does not clearly convey the intent of the legislation Some board members could not resolve that health and economic aspects of water pollution control were completely separate. In fact, they felt that since the water pollution control boards co-ordinated all activities separation should not exist. The board feels that because this wording is not clear, it should be rewritten.

RECOMMENDATIONS

In order that the executive officer for the state board might more easily tabulate the actions of the Santa Ana Regional Water Pollution Control Board, the alphabetical lettering adopted by the state board will be used in reporting this board's actions.

Recommendation A. The board *endorsed* this recommendation with the comment that subparagraph (3) be softened by substituting another word for "requiring."

Recommendation B. Not endorsed.

Recommendation C. Not endorsed.

Recommendation D. *Endorsed.*

Recommendation E. *Endorsed.*

Recommendation F. Not endorsed. The board felt that although they did not endorse this recommendation, the policy expressed does have some merit that should be further investigated. It was believed that this recommendation as written would give police power to the board and the executive officer which the board felt was not appropriate.

Recommendation G. *Endorsed.*

Recommendation H. *Endorsed* (three to two vote).

Recommendation I. *Endorsed.*

Recommendation J. *Endorsed* (four to one vote).

Recommendation K. *Endorsed.*

The following actions were taken by the board on the recommendations of the departmental task force:

Recommendation 1. No action.
Recommendation 2. Not endorsed.
Recommendation 3. Not endorsed.
Recommendation 4. Not endorsed.
Recommendation 5. Not endorsed. The board felt that this recommendation is encompassed by a policy that is already established and in effect in the present law.
Recommendation 6. Not endorsed.
Recommendation 7. Not endorsed.
Recommendation 8. Not endorsed.
Recommendation 9. Not endorsed.
Recommendation 10. Not endorsed.
Recommendation 11. Not endorsed. The board felt that this recommendation is encompassed by a policy that is already established with all state agencies
Recommendation 12. Not endorsed.
Recommendation 13. *Endorsed.*
Recommendation 14. Not endorsed.
Recommendation 15. Not endorsed.
Recommendation 16 Not endorsed.
Recommendation 17. *Endorsed.*
Recommendation 18. *Endorsed.*

(Signed) RAYMOND V. STONE, JR., Executive Officer
RVS:ld

APPENDIX N

Preparation of Statement to Assembly Interim Committee on Bay and Water Pollution

MEMORANDUM

STATE OF CALIFORNIA
WATER POLLUTION CONTROL BOARD
SAN DIEGO REGION No. 9

To: PAUL R. BONDERSON, Executive Officer
State Water Pollution Control Board

March 19, 1958

The San Diego Regional Water Pollution Control Board, at its special meeting of March 19, 1958, considered the report of the executive officers' recommendations for changes in the water pollution control laws and also considered the recommendations of the departmental task force. No action was taken on the recommendations of departmental task force. The following actions were taken on the executive officers' recommendations:

(1) The board concurred in the statement of Fundamental Principles and Philosophy.

(2) Recommendation A—Not endorsed. Board believes these principles are already embodied in act and correction of problem is an administrative matter

Recommendation B—Not endorsed. Same reason as above.

Recommendation C—Endorsed.

Recommendation D—Not endorsed. The board is of the opinion that case-by-case determination regarding use of the waters of the State for waste assimilation is more compatible with regional control.

Recommendation E—Not endorsed.

Recommendation F—Endorsed

Recommendation G—Endorsed

Recommendation H—Endorsed

Recommendation I—Endorsed.

Recommendation J—Endorsed.

Recommendation K—Endorsed.

No action was taken to submit additional recommendations.

(Signed)

DENNIS A O'LEARY, Executive Officer

APPENDIX O

CALIFORNIA STATE WATER POLLUTION CONTROL BOARD RESEARCH PROGRAM

One of the statutory functions of the State Water Pollution Control Board is that of administering programs of applied research in the technical phases of water pollution control. Every year, following its activation in 1950, the board has recommended specific research projects on statewide problems of concern to the State and nine regional water pollution control boards (as regulatory agencies in California) and to the waste dischargers and water users in this State.

Applied research and field investigations in water pollution control have been undertaken by the state board to accomplish two things: first, to bridge the gap between pure research done in the laboratory and the actual construction of facilities to abate pollution; and second, to provide facts with which the control agencies can fairly and equitably regulate waste discharges to protect beneficial uses of water. Research projects under consideration by the board must meet the following requisites:

1 They must relate directly to water pollution control problems. Projects are designed to assist: (a) the control boards in carrying out their statutory duties of prescribing waste discharge regulations and formulating long-range plans and policies for pollution control; (b) the waste dischargers, who are interested in constructing and operating economical waste treatment facilities while at the same time meeting the regulations set by the control boards; and (c) the water users, whose primary concern is that of maintaining water quality for protection of beneficial water uses.

2 A definite and pressing need must be shown. Every project must be aimed at solving a clearly defined problem of statewide interest or of concern to a large segment of the State. Research projects have originated either as a result of the state board's own observations of the need for technical information on some phases of pollution control work or as a result of suggestions and recommendations of legislative committees, the regional boards, or other interested groups and agencies. In every case, the extent of the need has been determined after consultation with all agencies or groups concerned with the proposed research.

3 Each problem investigated must stand a good possibility of being solved at a reasonable cost.

4 The research must not duplicate studies made by others. Before initiating any project, a thorough check is made to determine how much research has been done on the subject to be investigated, and the project is planned so as to make full use of any prior investigations.

From April, 1950, through December, 1957, a total of $680,100 has been expended for research under the direction of the state board. Of this total, $203,020 represents federal grants (under Public Law 845, 80th Congress, and Public Law 660, 84th Congress), $25,000 has been contributed by private organizations, and $452,080 has been appropri-

ated by the California Legislature. Most of the research projects have been contracted with universities and colleges, but contracts also have been awarded to private consultants when in the best interest of the State.

The attached table lists the projects that have been undertaken to date, the contractors, and the project costs. Each contract requires that the researcher must furnish a project report in the form of a manuscript ready for possible future printing. As shown in the table, the state board has authorized publication and distribution of reports on 14 of these projects. Five projects (all in the field of submarine outfall research) are now under contract.

The board's policy on the distribution and sale of research publications is stated in Resolution No. 52-19 which provides that complimentary copies may be furnished to: (1) governmental officials and agencies directly concerned with water pollution control and related fields; (2) educational institutions and libraries; (3) individuals or organizations that have contributed to the preparation of the publication; and (4) individuals or organizations whose review or comment are solicited on the publication Copies that are not distributed free are sold through the Documents Section, State Division of Printing.

In the following paragraphs, the individual research projects are described briefly and their results and applications are explained

Water Quality Criteria

This was one of the first projects authorized by the state board. The published report on this project has become an indispensable aid to the regional boards in establishing water quality objectives and prescribing waste discharge requirements, to investigatory agencies, and to water users and waste dischargers. The report has received international recognition as a valuable reference manual on water quality criteria.

The need for a complete and up-to-date compendium of data on this subject was realized as soon as the water pollution control boards began operating. To meet this need, the state board entered into a contract in January, 1951, with the California Institute of Technology, Pasadena, to conduct an investigation and critical evaluation of the literature on water quality criteria. The investigation took 18 months to complete, and the resulting 512-page report was printed as Publication No. 3 The publication consists of four main headings· (1) a compilation of criteria as promulgated by state and interstate control agencies in the United States; (2) a review of judicial expressions pertaining to water quality criteria; (3) a listing of water quality objectives for major beneficial uses of water, and (4), constituting the major portion of the work, a listing of all the potential pollutants on which data are available. The report also includes a bibliography of 1,369 references.

Recognizing the importance of keeping Publication No 3 up to date, the board in July, 1953, contracted with Dr. J. E. McKee, California Institute of Technology, for resumption of the investigation. The report on this renewed research has been published as Addendum No 1 The data included in the addendum comprises references that

STATE WATER POLLUTION CONTROL BOARD

SUMMARY OF RESEARCH PROGRAM

April, 1950 through December, 1957

Research project	Contractor	Date (fiscal years)	Cost*	Publication No.
Water Quality Criteria Addendum No 1	Cal Inst Tech J E McKee	1950-52 1953-54	$24,620 s 3,950 s	3 3-Addendum
Investigation of Travel of Pollution (from direct recharge into underground formations)	Univ Calif (Conducted at Richmond)	1950-54	89,844 s	11
Field Investigation of Waste Water Reclamation in Relation to Ground Water Pollution	Univ Calif (Conducted at Lodi)	1950-52	28,400 f	6
Studies of Waste Water Reclamation	U C L A	1951-52	25,566 s	9
Survey of Direct Utilization of Waste Waters	Univ So Calif	1954-57	75,000 s	12, 15, 18
Investigation of Leaching of Ash Dumps	Univ So Calif	1950-52	19,000 s	2
Investigation of Leaching of a Sanitary Landfill	Univ So Calif	1952-54 1954-57	59,000 s 12,000 †	10 --
Studies of the Algae of Sewage Oxidation Ponds	Univ Calif (Berkeley)	1951-52 1953-55	2,000 f 15,000 s	7 13
Oily Substances and Their Effects on Beneficial Uses of Water	J E McKee (Consult Engr)	1954-55	4,600 s	16
Exploratory Investigation of the Efficacy of Submarine Outfall Disposal of Sewage and Sludge	E A Pearson (Consult. Engr)	1954-55	4,500 s	14
Oceanographic Survey of Continental Shelf Area of So Calif	Univ So Calif (Hancock Found)	1956-58	99,200 s 138,800 f	Project not completed
Effects of Waste Disposal on Kelp Beds	Univ Calif (La Jolla)	1957-58	13,800 s 6,200 f	Project not completed
North Coastal Oceanographic Investigation	Humboldt State College	1957-58	6,000 s 5,000 f	Project not completed
Investigation of Oily Substances on Beaches	Univ So Calif	1957-58	25,000 w	Project not completed
Development of Current Meters	J W Johnson (Consult Engr)	1957-58	7,000 f	Project not completed
(Consulting Board for Submarine Outfall Research Projects)	E A Pearson, J E McKee, R D Pomeroy	1956-58	15,620 f	--
	State Appropriations Federal Grants WOGA Grant		$452,080 s 203,020 f 25,000 w	
	Total Cost Research Program, 1950-57		$680,100	

* s = State appropriation
f = Federal grant
w = Western Oil & Gas Association grant
† In addition to the $59,000 spent on the original investigations $12,000 has been spent for limited followup studies at the rate of $4,000 per year during 1954-55, 1955-56, and 1957-58 fiscal years

appeared after completion of the 1952 report and many older articles that were not uncovered in the earlier survey.

Travel of Pollution

Artificial recharge of aquifers with reclaimed sewage and waste waters has been recognized as one potential means of solving the growing problem of ground water overdraft in many areas. For various reasons, replenishment of ground water basins by injection of reclaimed wastes has not been practiced. Two of the reasons are technical and

result primarily from a need for conclusive information on the travel of pollution with ground water movement and on the practicability of injecting water containing organic and inorganic solids into an aquifer. Because of the lack of scientific knowledge on this subject, the state board in 1951 contracted with the University of California at Berkeley for a field investigation on: (1) extent and rate of travel of pollution with ground water movement; (2) use of recharge wells as a means of waste water disposal and ground water replenishment; (3) methods of operating recharge wells; and (4) economic aspects of recharge through wells

During 1951 and 1952, pertinent characteristics of the test aquifer were studied and an extensive well-field was installed at the Richmond Field Station In 1953 and 1954, travel of pollution in the aquifer was observed by injecting sewage treated in varying degrees. At the same time, problems of operation and redevelopment of the discharge wells were investigated. The state board authorized printing of the final report on this project as Publication No. 11. The numerous findings of the investigators lead to the general conclusion that reclamation of sewage waters by direct recharge into underground waters is practical and that operational considerations rather than public health considerations are the controlling factors.

Waste Water Reclamation

With increased demand and limited supplies of water, it is only logical that California should consider the possibilities of reclaiming and utilizing waste waters. The state board, soon after its activation in 1950, sponsored two research projects to investigate waste water reclamation in relation to ground water pollution. Following completion of these two projects, a third investigation was started in July, 1954.

The first project was conducted over a period of 28 months at Lodi by the University of California This research was supported by federal funds and was administered at first by the State Department of Public Health and, after 1950, by the State Water Pollution Control Board. This project was concerned primarily with investigations of rates of percolation through different soils, methods of spreading, and chemical and bacteriological changes in wastes when percolating through various types of soils The results of this research appear in Publication No. 6. One of several important conclusions reached by the research contractor is that a bacteriologically safe water can be produced from settled sewage or from final effluent if the liquid passes through at least four feet of soil.

The second waste water reclamation project was contracted with the University of California at Los Angeles during the 1951-52 Fiscal Year. The report on this investigation has been printed as Publication No. 9 and is concerned principally with an analysis of four aspects of the problems of reclaiming waste waters for irrigation purposes: (1) the relation of methods of utilizing waste waters to ground water pollution and to contamination of crops; (2) the extent of nuisances resulting from reclaimed waste waters; (3) general considerations of importance in waste water reclamation programs; and (4) mineral pickup in the waste waters of representative California communities and industries

The third project in this field was conducted over a three-year period starting in 1954 and was contracted with the University of Southern California. This research was designed primarily to provide technical assistance and guidance to agencies that were operating or planning to operate waste water reclamation facilities. The first year's report (Publication No. 12) summarizes present day practices of waste water reclamation and reviews both foreign and domestic operations where utilization of waste waters is practiced. The second year's report (Publication No. 15) represents the first attempt by the University to conduct its research as a series of co-operative ventures with interested agencies. Two principal studies were started. The first concerned reclamation of liquid, digested sludge in San Diego County; the second concerned reclamation of raw sewage lagoon effluent at Mojave, California. The final report in this series (Publication No. 18) documents results of the second year of study at San Diego and Mojave, as well as additional studies initiated at the Marine Corps Base at Twentynine Palms and the Naval Ordnance Test Station at China Lake

Leaching of Ash Dumps

Location of waste disposal dumps in California, where a large proportion of the water supply is withdrawn from underground basins, is a problem of considerable concern and has often resulted in controversy because of lack of scientific knowledge on the polluting effect of such dumps. The control boards, concerned with the possibility of pollution of ground water by alkalies and salts leached from dumps by rainfall or ground water movement, found that few known facts existed upon which decisions could be based. In March, 1951, the state board entered into an agreement with the University of Southern California, Los Angeles, for an investigation of leaching of incinerator ash dumps. After 16 months study, a report was submitted by the university and has been printed as Publication No. 2. The report covers the field investigation of an actual dump.

Leaching of Sanitary Landfill

Following completion of the ash dump investigation (see above), research was continued by the same contractor on dumps handling garbage, rubbish and mixed refuse. Extensive studies of a typical sanitary landfill, located at Riverside, California, were undertaken during the two years ending June 30, 1954. The report on this project has been printed as Publication No. 10. Two of the major conclusions of the authors of the report are: (1) a sanitary landfill, if so located that no portion intercepts ground water, will not cause impairment of the ground water for either domestic or irrigation use; and (2) a sanitary landfill, if so located as to be in intermittent or continuous contact with ground water, will cause the ground water in the immediate vicinity to become grossly polluted. On the recommendation of the investigator, examination of the ground water at the research site is being continued on a limited basis to determine long-range effects, using the 33 wells installed during the original studies.

Algae of Oxidation Ponds

One of the methods used in California for treatment of wastes is that of sewage oxidation ponds in which growth of algae is the important factor in the purification process. A knowledge of the precise role of these algae is essential to a complete understanding of the operation of the ponds. In 1951, using a federal grant, the state board contracted with the Department of Botany, University of California at Berkeley, for exploratory research on a systematic study of the algae of 12 representative sewage oxidation ponds. The report on this research was published in 1953 as Publication No 7 While this exploratory study was conducted on a modest scale, the report made valuable contributions to the knowledge of the role of algae in the purification process and suggested operational procedures and design features believed to be conducive to better performance of oxidation ponds. The study pointed out the need for further research, and, as a result, the investigations were resumed (using state funds) during the 1953-54 and 1954-55 Fiscal Years. The report on the latter studies has been issued as Publication No. 13. It is chiefly concerned with a determination of the kinds and abundance of algae in oxidation ponds and with the establishment of which forms of algae are most important in the functioning of the ponds.

Oily Substances

In water pollution control work, some of the most difficult problems arise in connection with oily substances. One problem of concern to both the waste discharger and the regulating agency is the determination of limiting concentrations of oil and grease which may be tolerated in a receiving water without causing a pollution or nuisance In 1954 a contract was authorized with Dr J E McKee (California Institute of Technology) to study the pollutional effects of oily substances on various beneficial uses of water and to investigate analytical methods for measuring such substances The state board published the report on these studies as Publication No. 16.

Submarine Outfall Disposal of Sewage

Approximately 66 percent of the State's sewage and industrial waste is discharged to salt waters, and more than 125 California coastal communities dispose of their sewage effluent through submarine outfalls. Because of the increasing need for information on the technical and economic aspects of this method of disposal, the state board since 1954 has been concentrating its research program on studies relating to submarine outfall disposal

The first phase of this research consisted of an exploratory project contracted with Dr Erman A. Pearson (University of California at Berkeley) for an investigation of the efficacy of submarine outfall disposal of sewage and sludge. Issued as Publication No 14, the report on this investigation included an extensive review of the literature and operating experiences dealing with the rational design of outfalls. Among the topics considered in the report are economics, water quality criteria, bacterial viability, effects on marine resources, mechanics of dispersion, ocean currents, and construction and operation of submarine outfalls.

Based on the research contractor's recommendations in this exploratory study, the state board is undertaking a co-ordinated research program in the fields listed below. Three consultants (Dr. Pearson, Dr. J. E. McKee and Dr. Richard Pomeroy) have been retained to aid the board in planning and executing the following research projects:

1. *Oceanographic Survey of Continental Shelf Area of Southern California* In September, 1956, the state board authorized a contract with the University of Southern California (utilizing the facilities of the Allan Hancock Foundation for Marine Research) to conduct an oceanographic survey to determine the natural environmental characteristics of the continental shelf area of Southern California and to gather data to reveal changes in the marine environment in vicinities of existing sewage outfalls. This survey is still underway, and it is anticipated that a report on the first two year's study will be published late in 1958.
2. *Effects of Waste Disposal on Kelp Beds.* This project, started in November, 1957, has been contracted with the University of California (Institute of Marine Resources at La Jolla) to determine the effects of waste disposal on the survival, growth and general condition of kelp. The study is being integrated with parallel investigations conducted by the Department of Fish and Game on kelp bed problems.
3. *North Coastal Oceanographic Investigation.* A contract was executed with Humboldt State College in December, 1957, for an investigation in the vicinity of Humboldt Bay to develop biological, chemical, and physical descriptions of representative marine areas that ultimately may be affected by waste disposal
4. *Oily Substances on Beaches.* Many California beaches have a certain amount of oil or tar deposited on them. In view of the fact that the petroleum industry has recently embarked on an expanded program of offshore oil drilling and exploration along the Southern California coastline, the state board is sponsoring research for the purpose of determining whether oil or tar deposits result from waste discharges or from natural sources Using a grant from the Western Oil and Gas Association, the board in November, 1957, contracted with the University of Southern California for an investigation to determine the quantity of oily substances on beaches and in nearshore waters.
5. *Development of Current Meters.* In March, 1958, the state board authorized a contract with J. W. Johnson (consulting engineer and professor at the University of California) for an analysis and evaluation of existing and potential systems for measuring currents in coastal waters particularly as such currents relate to the movement, transport and dispersion of discharged waste waters. This project is intended to lead to recommendations for application or development of continuous or semicontinuous recording equipment for current strength and direction measurement at multiple depths.

APPENDIX B

RECOMMENDATIONS—WATER POLLUTION CONTROL LEGISLATION

SACRAMENTO, CALIFORNIA, May 21, 1958

HON. CHARLES W. MEYERS, *Chairman*
Subcommittee on Bay and Water Pollution
Assembly Interim Committee on Conservation, Planning, and Public Works
State Capitol, Sacramento, California

DEAR MR. MEYERS: The directors of the five state departments represented on the State Water Pollution Control Board have the honor to submit, for your consideration, their recommendations for water pollution control legislation.

Your committee has previously granted each of us an opportunity to present his individual viewpoint regarding the water pollution control program and by letter of February 24, 1958, requested each of us to recommend legislation that might be helpful in more effectively controlling pollution of the state's waters. At that time, we indicated that in view of our ex officio membership on the State Water Pollution Control Board, it would be more appropriate for us to defer any representations to your committee until after action had been taken by the board. The state board has submitted its recommendations for changes in water pollution control legislation.

Pursuant to your request, we now present our views and recommendations to your committee. The attached recommendations for legislation are designed to accomplish the following general objectives:

a. Establish and clarify state policy with respect to water pollution control.
b. Delineate more specifically the responsibilities and jurisdictions of state and regional water pollution control boards.
c. Increase the effectiveness of the water pollution control program

We all join in urging your committee favorably to consider these recommendations.

Respectfully submitted,

W. C. JACOBSEN
Director, Department of Agriculture

SETH GORDON
Director, Department of Fish and Game

DEWITT NELSON
Director, Department of Natural Resources

MALCOLM H. MERRILL, M. D.
Director, Department of Public Health

HARVEY O. BANKS
Director, Department of Water Resources

RECOMMENDATIONS—WATER POLLUTION CONTROL LEGISLATION

Presented herewith are the joint recommendations of the Departments of Agriculture, Fish and Game, Natural Resources, Public Health, and Water Resources for amending Division 7 of the Water Code. Following these recommendations is a draft of a bill embodying all the proposals. At the end of each specific recommendation, reference is made to the section of the bill covering that particular recommendation; each recommendation is also followed by appropriate discussion.

The conclusions and recommendations presented herein are based upon the experience of the directors of the five state departments mentioned above as members of the State Water Pollution Control Board in administering the water pollution control program under existing statutes, as well as upon their respective responsibilities concerning other aspects of the control, conservation, development, utilization and administration of the water resources of the State. The cases which have been brought before the state board, the evidence presented in connection herewith and the actions taken, and the many actions which have been taken by the regional boards have all been carefully studied. Thorough consideration has been given to the large body of case law relating to pollution control. Finally, the testimony which has been presented to the Subcommittee on Bay and Water Pollution has been considered and evaluated.

RECOMMENDATION I

Amend Chapter 1, relating to state policy to provide that:

a. In conformity with Article XIV, Section 3, of the California Constitution and Section 100 of this code, which require that the water resources of the State be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented, the Legislature finds and declares that the people of the State have a primary interest in the control and conservation of the water resources of the State and the prevention of damage thereto by unreasonable use; that such damage is detrimental to the peace, health, safety and welfare of the people of the State, and that the full beneficial use of the water resources of the State and the prevention of damage thereto by unreasonable use are proper functions and activities of the State. (Covered in Section 1 of suggested act.)

b. The Legislature finds and declares that, because of the widespread demand and need for the full utilization of the water resources of the State for numerous beneficial uses, including domestic, municipal, irrigation, industrial, generation of electric energy, preservation and enhancement of fish and wildlife resources, and for recreation and other beneficial uses, it is the policy of the State that the disposal of wastes

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to the waters of the State shall be so regulated as to achieve highest quality consistent with maximum benefit to the people of the State. (Covered in Section 2 of suggested act.)

c. It is the policy of the State, because of the aforesaid need and demand for utilization of its water resources for other uses, that the disposal of wastes to the waters of the State is a privilege, not a right, and such disposal shall be controlled so as to promote the peace, health, safety and welfare of the people of the State. (Covered in Section 3 of suggested act.)

d. While problems of pollution are primarily regional in character [as now stated in Section 13000], the Legislature finds and declares that the problem of quality control increasingly is becoming a matter of statewide interest and concern, and that statewide policies are necessary to insure adequate quality to meet the present and future requirements for all beneficial uses of the waters of the State. (Covered in Section 4 of suggested act.)

Discussion

There is serious need for a clearly defined statement of basic state policy regarding pollution control. It is imperative that this policy be formulated by the Legislature at this time, and be incorporated in the water pollution control laws.

As the State develops and its population continues to increase, not only will all available water be put to use, but multiple uses must be made of water resources. It is inevitable that conflicts will develop where pressures for minimizing costs of treating sewage and industrial waste are opposed to preservation of water quality for beneficial uses for domestic and industrial water supply, irrigation, maintenance and enhancement of fish and wildlife, and recreation. Proper administration of the water pollution control program involves reconciliation, as far as possible, of these essential but inherently competitive uses of water.

All of these uses must be considered legitimate, and their relative importance to the economy of the State must be evaluated, whenever a conflict arises, intelligently to establish priorities of use and set waste discharge requirements. It is in the best interest of the State to achieve a balanced agricultural, urban and industrial economy, which necessarily implies balanced use of water resources for the many purposes demanded thereof. Pollution control must be more fully integrated and co-ordinated with other aspects of water development and use. This essential objective is not being achieved now. The Legislature already has established priorities for domestic and agricultural use of water (Water Code, Section 106), but has not indicated how conflicts between uses for other beneficial purposes and for waste disposal shall be resolved.

Although it is acknowledged that the water pollution control program must be adapted to the peculiar needs of each region, it is equally true that it must be based on a statewide viewpoint. Increasingly, with development of the water resources of the State as envisioned in the California Water Plan, waters from one region must be transported to another region, and the pollution control policies in all regions must therefore be compatible. Furthermore, utilization of fish and wildlife resources and recreational use of waters brings together people from all

parts of the State, and a statewide policy is needed to protect the interests of the entire population.

The keynote to a successful and efficient pollution control program is prevention Experience has shown that prevention is better and cheaper than abatement. The possible consequences of lack of foresight and vision in water pollution control planning and enforcement are exemplified by the Raritan River in New Jersey, where 40 years of talking, 11 years of study, and extensive litigation elapsed before positive action was taken to clean up a badly polluted stream. In fact, as of this date, the stream is still polluted

The Attorney General has ruled that under the provisions of Division 7 of the Water Code, waste disposal is a beneficial use of the State's waters. In practice, application of this concept has resulted at times in a tendency to permit deterioration of water quality to a degree which precludes use of such waters for other necessary purposes, present or potential. It is not a philosophy calling for a concerted effort to maintain the State's water in best condition. The statewide policy should provide for the maintenance of highest practicable level of water quality. We recommend therefore that existing laws be broadened and clarified to that end. It should be clearly stated, for example, that utilization of water for waste disposal is a privilege, not a right, and is subject to control and regulation by the State to the end that the quality of waters of the State be maintained at the highest practicable level.

RECOMMENDATION II

a. Amend Section 13022, which requires the State Water Pollution Control Board to formulate a statewide policy for control of water pollution, to require that such policy be sufficiently detailed to provide adequate quality standards in conformity with the policies [to be] set forth in Chapter 1. (Covered in Section 7 of suggested act.)

b. Add a new section to Article 2, Chapter 4, relating to powers of regional water pollution control boards, to require the regional boards to formulate and adopt policies relating to pollution control within the respective regions necessary to fit local conditions but within the framework of the legislative policy [to be] set forth in Chapter 1 and the statewide policies prescribed by the State Water Pollution Control Board. (Covered in Section 12 of suggested act.)

Discussion

Section 13022 of the Water Code directs that "the state board shall formulate a statewide policy for control of water pollution with due regard for the authority of the regional boards." At present there is no legislative requirement that any regional board act within the framework of state board policy. In fact, the executive officer of the San Francisco Bay Regional Water Pollution Control Board stated to the Subcommittee on Bay and Water Pollution, on November 4, 1957, that the regional board is autonomous with respect to policy.

It is felt that this directive should be clarified and the legislative policy more clearly enunciated. Furthermore, in order to bring about uniformity of action between the nine regional boards, policy of the state board should be binding upon the regional boards. The regional

boards would then act within the general guide lines set by the state board in accordance with legislative policy.

RECOMMENDATION III

a Following Section 13022, add a provision that, in formulating such a statewide policy, the State Water Pollution Control Board shall take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements and additions thereto as may be made from time to time. (Covered in Section 8 of suggested act.)

b. Add a further section to said Article 2, Chapter 4, to require the regional boards, in formulating policies and prescribing requirements, to take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements and additions thereto as may be made from time to time. (Covered in Section 13 of suggested act.)

Discussion

Long-range planning for all beneficial uses of California's waters, fresh and saline, is necessary if their maximum potential is to be attained. In order to forestall future problems, adequate protection of the quality of the State's water resources for present and future uses should be a prime requisite, with emphasis on the future. Situations should not be condoned which could develop into future problems, and which would then require many years and extensive litigation and expense to correct.

The Sacramento-San Joaquin Delta offers an excellent case in point A consulting board has recommended that the total dissolved solids content of waters in the delta be held to a maximum of 400 parts per million, in order to be suitable for export to areas of deficiency as contemplated under the California Water Plan which also envisions, in the interest of economy, the re-use, possibly several times, of imported waters in such areas. This is considerably less than the upper limit for satisfactory water quality for direct beneficial use, which is on the order of 700 parts per million. Under existing law, it is not incumbent upon the regional water pollution control board to recognize the requirements of the California Water Plan; in fact, it is questionable whether the board has the authority to do so. Thus, the development of California's water resources could be gravely impaired under existing law.

Of possible greater significance is the need for protection of our underground storage reservoirs. These reservoirs will be required to augment surface storage for conservation and regulation of the State's variable, erratic stream flow. They will be needed to store surplus waters for export and, in areas of deficiency, to furnish regulatory and cyclic storage for imported supplies. In many instances, highly mineralized wastes are being discharged directly to land surface and percolat-

ing into these underground reservoirs. Because the existence of usable ground water supplies cannot be established, it is doubtful whether abatement proceedings can be instituted under present water pollution control law. Thus, for all practical purposes, the utilization of these reservoirs may be materially impaired and perhaps irrevocably lost for water development, because of the extreme difficulty and prohibitive cost of salvaging a polluted underground reservoir.

RECOMMENDATION IV

Add a further section to Article 2, Chapter 4, to provide that a regional board, in prescribing requirements, may incorporate therein adequate margins of safety in order to avoid possible detrimental effects not subject to initial direct evaluation. In establishing such margins of safety, consideration may be given, but is not limited, to such factors as: (1) threats to the public health and safety that might result from operational breakdowns or other unpredictable occurrences; and (2) adverse effects upon the preservation, enhancement, and propagation of fish and wildlife caused by impairment of the habitat. (Covered in Section 16 of suggested act).

Discussion

Conservatism should be exercised in setting requirements for disposal of waste discharges, to allow for long-range effects and indeterminate factors not readily subject to direct evaluation.

For example, experience shows that all plants for treatment of sewage and industrial waste have occasional days of failure or necessary shutdown Although such incidents are relatively infrequent for any specific plant, they cannot be ignored or overlooked. Not only can they constitute a threat to the public health but in the aggregate they can adversely affect the suitability of waters for recreational use or for fishery maintenance and enhancement.

In considering requirements for fish and wildlife, emphasis should be placed on maintaining suitable habitat and food supply, rather than on mere prevention of toxic conditions. Dr. D. E. Wohlschlag of Stanford University testified before your committee that the long-term effects of low-level pollution on fish life are very difficult to evaluate Collection of necessary data is a costly and time-consuming task. Techniques are being developed to measure the effects of subtle, cumulative changes in habitat. Until accurate measures of these effects have been perfected, it is felt that the interests of the people will best be served by establishing ample margins of safety, so that any errors will be on the side of safety

Statewide policy should embody the principle that a realistic factor of safety must be maintained between the allowed waste loadings of receiving waters and their calculated total assimilative capacity. Water quality should not be allowed to deteriorate to marginal levels.

RECOMMENDATION V

Amend Section 13041 relating to membership on the regional boards, to include one person associated with both recreation and wildlife. (Covered in Section 11 of suggested act)

Discussion

Virtually all of the beneficial uses of water are specifically represented on the regional water pollution control boards, with the exception of fish, wildlife, and recreation This omission can lead to insufficient consideraion of these vital interests in setting waste discharge requirements. In view of the fact that protection and preservation of fishery resources and aquatic recreation are among the most important problems confronting the regional boards, it is felt that the water pollution control program would be made more effective by recognition of this field of interest in the composition of the regional boards.

RECOMMENDATION VI

Amend Article 2, Chapter 3, relating to powers of the State Water Pollution Control Board to authorize the State Water Pollution Control Board to serve in an appellate capacity with power to review de novo any action or order of a regional board with regard to discharge requirements or correction of any existing or threatened condition of pollution or nuisance, upon request by any interested person or upon its own motion, and to provide that the decision of the state board on such review shall be binding upon the regional board; also to provide that any order of a regional board prescribing requirements shall not be stayed pending an appeal (Covered in Sections 9 and 10 of suggested act.)

Discussion

One of the least understood principles of the present water pollution control act relates to Section 13025, which provides for the state board to act when a regional board fails to take or obtain appropriate action. The authority of the state board under this section has been questioned by some of the regional boards, and conflicting opinions have been expressed. Questions have arisen over many aspects of the state board's authority, including the following:

1. What is meant by "appropriate action" as used in Section 13025?
2. Can the state board, serving in an appellate capacity, review any or all actions of a regional board?
3. Can a regional board's actions be appealed to the state board by either a water user, a waste discharger, or both?
4. What is the extent to which the state board, on its own initiative, may review the actions of a regional board?
5. To what extent are rulings of the state board, upon appeal or review of a regional board's action, binding upon the regional board?

These are basic considerations which are not sufficiently clear and explicit under existing law, and have never been resolved to the satisfaction of all parties concerned

RECOMMENDATION VII

Amend Article 2, Chapter 4, relating to powers of regional water pollution control boards, to authorize the regional boards to prescribe requirements not only as to any proposed discharge of sewage or

industrial waste, as now provided in Section 13054, but also as to any existing discharge of sewage or industrial waste, whether or not a particular condition of pollution or nuisance exists or is immediately threatened as now required by Section 13053. This could be done by amending Section 13054 to include any person discharging, as well as any person proposing to discharge, sewage or industrial waste within any region. As to existing discharges, the requirement for filing a report thereon should be made dependent upon a request therefor from the appropriate regional board. (Covered in Section 14 of the suggested act.)

Discussion

Waste discharges that were in existence at the time Division 7 was added to the Water Code (1949) are not at present covered by the act unless there is an actual or threatened pollution or nuisance involved. At the time the statute was enacted, we believe it was intended that all significant discharges of sewage and industrial waste be covered by requirements. If the water pollution control program is to be fully effective, all sewage and industrial waste discharges, with few minor exceptions, should be subject to regulation; and it should be incumbent upon all discharges to report their discharges to the appropriate regional board upon request, for establishment of requirements.

RECOMMENDATION VIII

a. Add a new section following Section 13054 to provide that failure of any person to file a report as required in Section 13054 shall constitute a misdemeanor and to provide that each day of discharge without compliance with the reporting requirement shall constitute a separate offense. The regional boards also should be authorized to enforce the reporting requirement by appropriate injunction proceedings. (Covered in Sections 19, 20, 26, and 27 of suggested act.)

b. Add a new section after Section 13055 to provide that failure to furnish technical reports as required by Section 13055 shall constitute a misdemeanor, and to authorize the regional boards to enforce the requirement by injunction proceedings. (Covered in Sections 24, 25, 26, and 27 of suggested act.)

Discussion

Under Sections 13054 and 13055 of the Water Code, certain dischargers are required to file reports with the regional boards. However, there are no provisions for legal action to enforce these requirements. These reports are a valuable source of information, and form a vital link in the water pollution control program The lack of an adequate enforcement procedure is a definite weakness in the present law.

RECOMMENDATION IX

Add a new Article 4 to Chapter 4 to provide a summary procedure for abating a pollution or nuisance which is transitory in nature or is of short duration but periodic in occurrence. (Covered in Section 28 of suggested act).

Discussion

The procedures provided in the Water Code for enforcing water pollution control regulations are cumbersome and time-consuming. Thus, they cannot be effectively applied to transitory waste discharges such as those resulting from a temporary gravel pit furnishing materials for construction projects, short-term logging operations, transient food processing or canning operations, accidental or negligent spilling of waste materials, deliberate or emergency bypassing of waste treatment facilities, etc. In order to effectively cope with such situations, which often cause serious pollution problems, a summary procedure should be incorporated in the Water Pollution Control Act.

RECOMMENDATION X

Empower regional boards to require submission of technical reports (see Section 13055) for *existing* waste discharges whether or not an existing or threatened condition of pollution or nuisance is first shown to exist. (Covered in Section 23 of suggested act).

Discussion

One of the most expensive and burdensome tasks involved in water pollution control is surveillance. In part, this can be best accomplished by requiring all dischargers to submit technical information and to monitor their discharges where the regional board considers such action necessary. Information now available regarding the characteristics of sewage and waste discharge throughout the State, and effects upon receiving waters, is grossly inadequate; and there is an urgent need for comprehensive data regarding these discharges, particularly those for which requirements have not been set. These data are essential in assessing the effects of individual discharges upon receiving waters, and establishing causes for changes in water quality They could also be utilized in evaluating potentialities for reclamation of waste waters, thus augmenting the program presently being conducted by the Department of Water Resources under Legislative directive (Section 230 of the Water Code). The collection and submission of such information should be a responsibility of each discharger, rather than an obligation of the State.

RECOMMENDATION XI

Amend Article 2, Chapter 3, to require the state board to publish biennial progress reports relating to the activities of the state and regional boards. (Covered in Section 6 of suggested act).

Discussion

The water pollution control program is a comprehensive, far-reaching activity of considerable public significance and interest. It involves continuing redetermination of the quality of the State's waters, and close regulation of sewage and industrial waste discharges; and can profoundly influence the cultural and economic development of the State. It is the duty and responsibility of all agencies involved in the water pollution control program, particularly the State Water Pollution Control Board, to document their activities and make the results available to the public.

RECOMMENDATION XII

a. Amend Article 2, Chapter 3, to provide that failure to comply with duly prescribed requirements constitutes a misdemeanor, and that each day's violation constitutes a separate offense. (Covered in Sections 21, 26, and 27 of suggested act).

b. Amend Article 2, Chapter 3, to authorize the regional boards to bring injunction proceedings against violators of prescribed requirements. (Covered in Sections 22, 26, and 27 of suggested act).

Discussion

The procedures followed in the establishment of waste discharge requirements are designed to completely protect the interest of the discharger and to enlist the best technical talent available in the State in insuring appropriateness of the requirements. Once the discharge requirements have been arrived at in this manner, they should constitute the law, as far as the discharger is concerned. The statute should be amended to provide that a discharger may be enjoined from discharges in violation of requirements, and also to provide for enforcement by direct criminal prosecution.

RECOMMENDATION XIII

Amend Section 13002 to provide that no disposal of waste to the waters of the State shall preclude future use of such waters for other purposes, nor shall a board, by prescribing requirements, be precluded thereafter from prescribing higher quality requirements relative to the same disposal area or receiving waters; also to provide that a discharge pursuant to prescribed requirements shall not create a vested right to continue such discharge subject only to those requirements. (Covered in Section 5 of suggested act).

Discussion

With full development of California's resources, maximum beneficial use will have to be made of all waters of the State It is vital that no one entity or group be allowed to pre-empt the entire waste assimilation capacity of a receiving water to the exclusion of all future development. It should be clearly established in the Water Code that all waste discharges are subject to upgrading, if found necessary, to allow for further development. To do otherwise inevitably invites progressively increasing deterioration in water quality and might well result in economic stagnation.

This is particularly true where wastes are allowed to percolate to perched or shallow aquifers overlying deeper water-bearing zones which are separated by relatively impermeable clay layers. Even though there is no direct hydraulic continuity between the aquifers at present, the overlying polluted waters constitute an ever-present threat to usable deeper waters, since there is always the possibility that interchange of waters will occur through defective or abandoned wells or through indirect, untraceable interconnection of aquifers. Deep-lying ground waters are presently being degraded through this indirect process in such areas as Southern Alameda County and the West Coast Basin of Los Angeles County.

It is essential that the authority of regional boards to regulate and upgrade waste discharges to avoid or mitigate such *potential* hazards be clearly established in the law.

RECOMMENDATION XIV

a. Amend Article 2, Chapter 4, to authorize regional boards to require a discharger or proposing discharger to show necessity for a discharge at a given point, and to authorize the boards to prohibit discharge at a given point if such necessity is not established. (Covered in Section 18 of suggested act.)

b. Amend Article 2, Chapter 4, to authorize regional boards to specify certain conditions and locations where no direct discharge of sewage or industrial wastes may be permitted (Covered in Section 17 of suggested act.)

Discussion

The regional water pollution control boards have taken the position that they have no right, under present law, to question a discharge proposal per se; but are obliged to set requirements even though the discharge at the specified location may be merely a matter of convenience, and feasible alternatives are available. Regional boards should be authorized to prohibit waste discharges directly to streams, reservoirs, or lakes in the immediate vicinity of domestic water intakes. In the absence of specific authorization, it is doubtful whether a regional board may actually forbid discharges, even though the location may be hazardous.

There are other situations under which direct discharge of wastes should not be permitted. In Ventura County, for example, a plating concern proposed to discharge wastes to sumps and cesspools. These wastes admittedly contain chromium, arsenic, and other toxic materials. Although requirements set by the regional board specify that the quantities of these materials be kept within safe limits, there is no assurance that this discharge will not occasionally contain toxic concentrations. A similar situation exists at Visalia. In both of these cases, it is acknowledged that these wastes can percolate into ground water basins that are utilized for water supply. Checking on the effects of these wastes through sampling of ground waters is ineffective, since irreparable damage may be caused to the ground water basin before the results are detected. Thus it is felt that discharges of this nature to ground water basins should be prohibited

It is in the best interests of the State to encourage industrial and urban development at locations where adequate waste disposal capacity is readily available. Wherever possible, industries with severe waste disposal problems should select locations where they can discharge their wastes to the ocean without endangering other beneficial uses, present or potential, of the ocean waters. The regional boards should be empowered to encourage such planning by requiring a prospective discharger to make a showing of necessity for a discharge of sewage or industrial waste.

The fact should be recognized that there are certain circumstances and locations where no direct discharge of waste should be permitted.

RECOMMENDATION XV

Add a new section following Section 13054 to clarify the authority of regional boards to prescribe revised requirements when character, location or volume of discharge is changed, and to require dischargers to file with the appropriate regional board a report of any such change or proposed changes. (Covered in Section 15 of suggested act.)

Discussion

Most statutes providing for the setting of requirements specify procedures for dealing with changes and enlargements. This obviously was the legislative intent in the Water Pollution Control Act and should be clearly stated in the law.

Under existing law, proposed new sewage or industrial waste discharges must be reported to the appropriate regional board, which is then required to prescribe requirements relative to the proposed discharge While the board is now authorized to revise its requirements "from time to time" it is not incumbent upon dischargers to report changes in the character, location, or volume of discharge. The imposition of such a reporting requirement upon the discharger would both serve to inform the board regarding proposed changes and assist in establishing revised requirements. Major changes would thus be placed on the same basis and subject to the same requirements as new discharges.

SUGGESTED LEGISLATION

An act to amend Sections 13002, 13022, 13025, 13041, 13052, 13054, 13055, and 13060 of, to add Sections 13000 1, 13000.2, 13000.3, 13000.4, 13020 1, 13022.1, 13026, 13052 1, 13054.1, 13054.2, 13054.3, 13054.4, 13054 5, 13054.6, 13054.7, 13054 8, 13055 1, 13055.2, 13065 to, and to add Article 4 (commencing at Section 13080) to Chapter 4 of Division 7 of, the Water Code, relating to water pollution.

The people of the State of California do enact as follows:

SECTION 1. Section 13000.1 is added to the Water Code, to read:

13000.1. In conformity with Article XIV, Section 3 of the Constitution of the State and Section 100 of this code, which require that the water resources of the State be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented, the Legislature finds and declares that the people of the State have a primary interest in the control and conservation of the water resources of the State and the prevention of damage thereto by unreasonable use; that such damage is detrimental to the peace, health, safety and welfare of the people of the State, and that the full beneficial use of water resources of the State and the prevention of damage thereto by unreasonable use are proper functions and activities of the State.

SEC 2. Section 13000.2 is added to said code, to read:

13000.2. The Legislature finds and declares that, because of the widespread demand and need for the full utilization of the water resources of the State for numerous beneficial uses, including domestic, municipal, irrigation, industrial, generation of electric energy, preservation and enhancement of fish and wildlife resources, and for recrea-

tion and other beneficial uses, it is the policy of the State that the disposal of wastes to the waters of the State shall be so regulated as to achieve highest quality consistent with maximum benefit to the people of the State.

SEC. 3. Section 13000.3 is added to said code, to read:

13000.3. The Legislature further finds and declares that because of the aforesaid need and demand for utilization of its water resources for other purposes, it is the policy of the State that the disposal of wastes to the waters of the State is a privilege, not a right, and such disposal shall be controlled so as to promote the peace, health, safety and welfare of the people of the State.

SEC. 4. Section 13000.4 is added to said code, to read:

13000.4. The Legislature finds and declares that while problems of pollution are primarily regional in character, problems of quality control increasingly are becoming a matter of statewide interest and concern, and statewide policies are necessary to insure adequate quality to meet the present and future requirements for all beneficial uses of the waters of the State.

SEC. 5. Section 13002 of said code is amended to read:

13002. No provision of this division shall be construed as affecting the right of any person to the use of water for any beneficial use other than the use for disposal of sewage and industrial wastes. *No disposal of waste to the waters of the State shall preclude future use of such waters for other purposes, nor shall the state board or any regional board, by prescribing requirements, be precluded thereafter from prescribing higher quality requirements relative to the same disposal area or receiving waters. A discharge pursuant to prescribed requirements shall not create a vested right to continue such discharge under those same requirements.*

SEC. 6. Section 13020.1 is added to said code, to read:

13020.1. The state board shall publish biennial progress reports relating to the activities of the state and regional boards.

SEC. 7. Section 13022 of said code is amended to read:

13022. The state board shall formulate *and adopt* a statewide policy for control of water pollution with due regard for the authority of the regional boards. *Such policy shall be sufficiently detailed to provide adequate quality standards in conformity with the policies set forth in Chapter 1 of this division.*

SEC. 8. Section 13022.1 is added to said code, to read:

13022.1. In formulating a statewide policy pursuant to Section 13022, the state board shall take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements and additions thereto as may be made from time to time.

SEC. 9. Section 13025 of said code is amended to read:

13025. Whenever a regional board fails to take or obtain appropriate action to correct any particular existing or threatened condition of pollution or nuisance, the state board shall direct that action to correct the condition be taken by any state agency having jurisdiction or may, itself, take such action.

In taking any such action the state board is vested with the powers granted to the regional boards in Sections 13053, 13054, *13054.1, 13054.2, 13054.3, 13054.4, 13054.6, 13054.8* ~~and~~ 13055, *13055.2* and Article *s 3 and 4*, Chapter 4, of this division, and the state board shall follow the procedures set forth therein

The state board upon finding that a contamination exists and is not being corrected, shall ~~direct that action be taken by any state agency having jurisdiction.~~ *refer the condition to the State Department of Public Health for action.*

SEC. 10. Section 13026 is added to said code, to read:

13026. Upon the petition of any interested person, or upon its own motion, the state board may review de novo any action or order of a regional board relative to discharge requirements or relative to the correction of any existing or threatened condition of pollution or nuisance. On such review, the decision and order of the state board relative to that proceeding shall be binding upon all persons and upon the regional board and shall supersede any order relative to the same proceeding theretofore issued by the regional board in conflict therewith. An order of the regional board shall not be stayed pending a review thereof by the state board. The powers conferred by this section are in addition to, and shall not be construed as a limitation upon, the powers conferred by Section 13025.

SEC. 11. Section 13041 of said code is amended to read:

13041. A regional board, consisting of the following members shall be appointed by the Governor for each of the regions described in Section 13040.

(a) One person associated with organizations dealing with water supply, conservation, or production;

(b) One person associated with irrigated agriculture who is an owner or manager of a farm in the region;

(c) One person selected from persons acting in an executive or administrative capacity in industries producing industrial waste in the region,

(d) One person associated with the municipalities in the region;

(e) One person associated with the counties in the region~~.~~ *;*

(f) One person associated with both recreation and wildlife.

SEC. 12. Section 13052 of said code is amended to read:

13052. Each regional board, with respect to its region, shall:

(a) Obtain co-ordinated action in the abatement, prevention and control of water pollution and nuisance by means of formal or informal meetings of the persons involved;

(b) Encourage and assist in self-policing waste disposal programs for industry, and upon application of any person shall advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged;

(c) Require any state or local agency to inspect and report on any technical factors involved in water pollution or nuisance;

(d) Request enforcement of laws concerning water pollution or nuisance by appropriate federal, state and local agencies;

(e) Formulate and adopt long-range plans and policies with respect to water pollution control within the region *in accordance with the*

legislative policy set forth in Chapter 1 and the statewide policies prescribed by the state board ;

(f) Recommend to the state board projects for the reduction of water pollution which the regional board considers eligible for any financial assistance which may be available through the state board;

(g) Report to the state board and appropriate local health officer any case of contamination in its region which is not being corrected.

(h) File with the state board, at its request, copies of any official action with respect to any particular case of actual or threatened pollution.

(i) Have the power to require any state or local agency to obtain and submit analyses of well water.

SEC. 13. Section 13052.1 is added to said code, to read:

13052.1. The regional boards, in formulating policies and prescribing requirements, shall take cognizance of and be guided by the California Water Plan or any other general or co-ordinated plan of the State looking toward the development, utilization or conservation of the water resources of the State, including such amendments, supplements, and additions thereto as may be made from time to time.

SEC 14. Section 13054 of said code is amended to read:

13054. Any person proposing to discharge sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of such proposed discharge. *Upon the request of the regional board, any person presently discharging sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of such discharge.* The reporting of a discharge of sewage from family dwellings in any area may be waived by the regional board. The regional board, after any necessary hearing, shall prescribe requirements as to the nature of such *proposed or existing* discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is *made or* proposed and notify the person *making or* proposing the discharge of its action. Such requirements may be revised from time to time. After receipt of such notice, the person so notified shall provide adequate facilities to meet any such requirements with respect to the discharge of sewage and industrial waste.

SEC. 15. Section 13054.1 is added to said code, to read:

13054.1. Any person discharging sewage or industrial waste within any region, other than into a community sewer system, shall file with the regional board of that region a report of any material change or proposed change in the character, location or volume of the discharge. The regional board, after any necessary hearing, shall prescribe requirements or revised requirements as to the nature of such discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is made or proposed and notify the person making or proposing the discharge of its action. Such requirements may be revised from time to time. After receipt of such notice, the person so notified shall provide adequate facilities to meet any such requirements or revised requirements with respect to the discharge of sewage and industrial waste.

SEC. 16. Section 13054.2 is added to said code, to read:

13054.2 A regional board, in prescribing requirements, may incorporate therein adequate margins of safety in order to avoid possible detrimental effects not subject to initial direct evaluation. In establishing such margins of safety, consideration may be given, but is not limited, to such factors as (1) threats to the public health and safety that might result from operational breakdowns or other unpredictable occurrences, and (2) adverse effects upon the preservation, enhancement, and propagation of fish and wildlife caused by impairment of the habitat

SEC. 17. Section 13054 3 is added to said code, to read:

13054.3. Each regional board, within its region, may specify certain conditions and locations where no direct discharge of sewage or industrial waste will be permitted.

SEC. 18. Section 13054 4 is added to said code, to read:

13054 4. Each regional board within its region may require a discharger of, or a person proposing to discharge, sewage or industrial waste within the region to show the necessity for discharging at a specified location, and may prohibit the discharge at such location if necessity is not established.

SEC. 19 Section 13054 5 is added to said code, to read:

13054.5 Any person failing to file a report, upon request of a regional or state board, as required in Sections 13054 or 13054.1 is guilty of a misdemeanor. Each day of discharge of sewage or industrial waste within a region without compliance with the reporting requirements shall constitute a separate offense.

SEC. 20. Section 13054 6 is added to said code, to read:

13054 6 Upon failure of any person or persons to file a report as required by Sections 13054 and 13054 1, a regional board may certify the facts to the district attorney for the county in which the discharge or proposed discharge does or will occur, and the district attorney shall petition the superior court in and for that county for the issuance of an injunction requiring such person or persons to file the required report and restraining such person or persons from discharging sewage or industrial waste within the region until the required report has been filed. In any such suit, the court shall have jurisdiction to grant, without requiring bond or other undertaking, such prohibitory and mandatory injunction, either preliminary or final, as the facts may warrant.

SEC 21. Section 13054 7 is added to said code, to read:

13054.7. Any person discharging sewage or industrial waste in violation of requirements prescribed pursuant to Sections 13053, 13054, and 13054.1, is guilty of a misdemeanor. Each day's violation shall constitute a separate offense.

SEC 22 Section 13054.8 is added to said code, to read:

13054 8. Upon failure of any person or persons to comply with any requirements prescribed pursuant to Sections 13053, 13054, or 13054.1, the board issuing the order may certify the facts to the district attorney for the county in which the discharge occurs, whereupon such district attorney shall petition the superior court in and for the county for the issuance of an injunction restraining such person or persons from discharging sewage or industrial waste in violation of the prescribed requirements. In any such suit, the court shall have jurisdiction to grant,

without requiring bond or other undertaking, such prohibitory and mandatory injunction, either preliminary or final as the facts may warrant.

SEC. 23 Section 13055 of said code is amended to read:

13055 A regional board may investigate any source of water pollution or nuisance within its region and may require that any person ~~responsible for meeting prescribed requirements~~ *discharging sewage or industrial waste within the region* furnish such technical reports as the board may specify.

SEC 24 Section 13055 1 is added to said code, to read:

13055 1. Any person failing or refusing to furnish technical reports as required by Section 13055 is guilty of a misdemeanor.

SEC 25. Section 13055 2 is added to said code, to read:

13055.2 Upon failure of any person or persons to furnish any technical report required pursuant to Section 13055, the regional board may certify the facts to the district attorney for the county in which the discharge occurs, whereupon such district attorney shall petition the superior court in and for that county for the issuance of a mandatory injunction requiring such person or persons to furnish the technical reports, or a prohibitory injunction restraining such person or persons from discharging sewage or industrial waste until such technical reports have been furnished.

SEC 26. Section 13060 of said code is amended to read:

13060. When it appears to a regional board that the discharge of sewage or industrial waste within its region is taking place contrary to any requirements prescribed by the regional board under the provisions of Sections 13053, 13054, *13054.1* and 13055, the board ~~shall~~ *may* order a hearing on the matter and *shall* serve notice thereof by registered mail, not less than 10 days prior to the hearing on all persons alleged to be creating the condition.

SEC. 27. Section 13065 is added to said code, to read:

13065 The remedies provided by this article shall not be deemed to be exclusive.

SEC. 28. Article 4 is added to Chapter 4 of Division 7 of said code, to read:

Article 4. Summary Abatement

13080 A civil action may be brought in the name of the people of the State of California to abate a pollution or nuisance which is transitory in nature or is of short duration but periodic in occurrence by the district attorney of any county in which such pollution or nuisance occurs, and such district attorney must bring such action whenever requested by the regional board of the region in which such pollution or nuisance occurs. The superior court shall have jurisdiction to order abatement of the pollution or nuisance in the same manner as a public nuisance may be abated.

APPENDIX C

SUMMARY AND COMPARISON OF RECOMMENDATIONS FOR CHANGES IN WATER POLLUTION CONTROL LEGISLATION SUBMITTED TO THE SUBCOMMITTEE BY ALL PUBLIC AND PRIVATE AGENCIES

SUMMARY AND COMPARISON OF RECOMMENDATIONS FOR CHANGES IN WATER POLLUTION CONTROL LEGISLATION

By JAN STEVENS, Legislative Intern

It should be noted that the San Francisco Bay Regional Board took no action on suggested changes in the act, and thus does not appear pro or con on any of the proposals.

The regional boards are cited by number for convenience; their names can easily be ascertained from the map contained in the joint board statement of April 2, 1958 (page 20).

The proposals were necessarily generalized and condensed.

CHAPTER I. DECLARATION OF STATE POLICY

(1) Declare specifically that state and regional water pollution control boards are the principal agencies responsible for the control of water pollution in California, direct them to obtain a co-ordinated control program, and require other state agencies to co-operate with them in obtaining co-ordinated action.

This recommendation was endorsed by regional control boards 1, 3, 4, 7 and 8. It was not endorsed by boards 5, 6 or 9, or by the state board.

Not accepted by the subcommittee.

(2) Clarify policy permitting use of state waters for the assimilation of wastes.

This was endorsed by boards 1, 7 and 8, and refused by boards 3, 4, 6 and 9, as well as the state board on grounds that the present statute was adequate.

Not accepted by the subcommittee.

(3) Declare that the people of the State have a primary interest in the control and conservation of water resources and the prevention of damage by unreasonable use; that such damage is detrimental to the peace, health, safety and welfare, and that the prevention of damage by unreasonable use are proper State functions.

Proposed by the departmental committee and California Manufacturers Association.

Accepted by the subcommittee.

(4) Make it a policy of the State that the disposal of wastes to her waters be so regulated as to achieve the highest quality consistent with the maximum benefit to the people of the State.

Recommended by the departmental committee.

Accepted by the subcommittee.

(5) Declare the policy of the State to be that disposal of wastes to State waters is a privilege, not a right.

Departmental committee recommendation.

Accepted by the subcommittee.

(6) Direct the state agencies developing long range water plans to collaborate with the boards in questions of water quality related to sewage and industrial wastes.

Endorsed by regional boards 1 and 7; rejected by boards 3, 4, 5, 6, and the state board on grounds the present law is clear enough.

Not accepted in this form by the subcommittee, see Chapter III, Proposal 4.

(7) Declare problems of quality control increasingly a matter of statewide interest and concern, necessitating statewide policies to insure adequate quality to meet the present and future requirements for all beneficial uses of the waters of the State.

Proposed by the departmental committee.

Accepted by the subcommittee.

(8) Declare that no waste disposal shall preclude future use of waters for other purposes; specifically reserving to the regional boards the power to raise quality requirements

A departmental committee recommendation endorsed by the California Manufacturers Association.

Accepted by the subcommittee.

(9) Clarify responsibility for controlling discharges of radioactive wastes.

Proposed by the North Coastal Regional Board.

Not accepted by the subcommittee.

(10) Eliminate all disposals of untreated wastes.

Proposed by the Izaak Walton League, Bay Area Clean Waters Council.

Not accepted by the subcommittee.

(11) Make waste disposal a permissive use, allowed only when beneficial uses of water are not affected.

Proposed by the Aquatic Resources Committee.

Not accepted by the subcommittee.

(12) Preclude consideration of the economic value of industry in evaluating proposals to lower requirements.

Proposed by the Aquatic Resources Committee.

Not accepted by the subcommittee.

CHAPTER II. DEFINITIONS

(1) Extend the definition of pollution for the act to include any effect on waters made by sewage, industrial waste or any substance specified in Fish and Game Code Section 5650.

Proposed by the Bay Area Clean Waters Council

Not accepted by the subcommittee.

(2) Remove the word "unreasonable" from the definition of pollution in Section 13005 of the act.

Proposed by the Associated Sportsmen of California and the California Wildlife Federation

Not accepted by the subcommittee.

(3) Amend the definition of pollution to include the alteration of physical, chemical or biological properties of any water or aquatic environment * * * by discharge of any liquid, gaseous or solid sub-

stance so as to impair or destroy the usefulness * * * for beneficial uses, but does not create an actual hazard to public health.

Endorsed by the Central California Trollers and Sportsmen's Post No. 99 of the American Legion, Aquatic Resources Committee.

Not accepted by the subcommittee.

CHAPTER III. THE STATE WATER POLLUTION CONTROL BOARD

(1) Specifically confer on the state control board power to review actions of the regional boards.

Proposed by the departmental committee and by regional boards 1, 3, 4, 7 and 8. Rejected by regional boards 6 and 9 and by the state board. Endorsed by the Associated Sportsmen of California.

Accepted by the subcommittee.

(2) Authorize the state board to publish biennial progress reports. Endorsed by regional boards 1, 3, 4, 5, 6, 7, 8 and 9 and the state board.

Endorsed in mandatory form by the departmental committee, the California Manufacturers Association and the Associated Sportsmen of California.

Not accepted by the subcommittee.

(3) Require the state board to formulate and adopt statewide policy for the control of pollution, sufficiently detailed to provide adequate standards for direction of the regional boards.

Proposed by the departmental committee; endorsed by the California Manufacturers Association, the Associated Sportsmen of California and the Aquatic Resources Committee.

Accepted by the subcommittee.

(4) Require the state board to consider the state water plan and any other general state plan related to water resources in formulating its policy.

Proposed by the departmental committee; endorsed by the Associated Sportsmen of California.

Accepted by the subcommittee.

(5) Increase membership of the state board to include members representing fish and wildlife and recreation.

An Aquatic Resources Committee recommendation.

Accepted by the subcommittee with an additional member to represent the general public.

CHAPTER IV. REGIONAL BOARDS

(a) Membership

(1) Increase membership by one person associated with recreation and/or wildlife.

Endorsed by regional boards 5, 6, 7 and 9 and the state board with the qualification that such person be associated with both recreation and wildlife.

The state board endorsement in accord with departmental committee.

Accepted by the subcommittee with additional member representing the general public.

(2) Increase membership by one representative of fish and wildlife and one of recreation.

An Associated Sportsmen of California recommendation, endorsed by California Wildlife Federation, and Aquatic Resources Committee.

Not accepted by the subcommittee

(b) Enforcement

(1) Provide summary enforcement procedure for transitory or periodic cases of pollution

Endorsed by regional boards 1, 3, 4, 5, 6, 7 and 9, and the state board. Rejected by regional board 8. Endorsed by departmental committee. Endorsed by the Izaak Walton League and the Associated Sportsmen of California.

Accepted by the subcommittee.

(2) Authorize regional boards to set requirements for any existing discharge; not just those put into effect after 1949.

Endorsed by eight regional boards and the state board. Endorsed by the Associated Sportsmen of California and the California Manufacturers Association.

Accepted by the subcommittee

(3) Make failure to report a proposed discharge as required by Section 13054 a misdemeanor, subject to injunction.

Endorsed by regional boards 1, 3, 4, 5, 6, 7, 8, and 9 and the state board, the departmental committee, the Associated Sportsmen of California, the California Manufacturers Association, and the Aquatic Resources Committee.

Accepted by the subcommittee.

(4) Make failure to submit technical reports under Section 13055, when requested, a misdemeanor subject also to injunction

Endorsed by eight regional boards, the state board, the departmental committee, the California Manufacturers Association and the Aquatic Resources Committee

Accepted by the subcommittee

(5) Empower regional boards to require technical reports regarding any existing waste discharges.

Endorsed by the eight regional boards, the state board, the departmental committee, and the Associated Sportsmen of California.

Accepted by the subcommittee.

(6) Make compliance with requirements set by the regional boards mandatory; failure being a violation of the act subject to injunctive action.

Endorsed by regional board 6, and the state board; rejected by regional boards 3, 4 and 8 Endorsed by departmental committee, the Associated Sportsmen of California and the Aquatic Resources Committee.

Accepted by the subcommittee.

(7) Require discharges to file reports of any material changes in the nature of discharges.

Proposed by the departmental committee; endorsed by the Associated Sportsmen of California.

Accepted by the subcommittee.

(8) Authorize regional boards to incorporate safety margins in their waste discharge requirements.

Proposed by the departmental committee; endorsed by the Associated Sportsmen of California.

Accepted by the subcommittee.

(9) Authorize regional boards to require that a discharger show necessity for locating in a particular place before setting requirements for him there. Authorize prohibition of any discharge under certain conditions.

Proposed by the departmental committee; endorsed by the Associated Sportsmen of California and the American Waterworks Association.

Accepted by the subcommittee.

(10) Make permissive the requirement that the regional board hold a hearing before finding that requirements are violated. Proposed by the departmental committee. Endorsed by California Manufacturers Association, state board, Colorado River and Los Angeles regional boards, providing a cease and desist order as alternative means of enforcement.

Accepted by the subcommittee.

(11) Authorize regional boards to control sources of pollution on submerged lands.

Proposed by the Bay Area Clean Waters Council.

Not accepted by the subcommittee.

(12) Require the Department of Water Resources to notify regional boards of pending transportation of water between watershed areas; the boards to alter their requirements accordingly.

Proposed by the California Manufacturers Association

Not accepted by the subcommittee.

(13) Authorize legal action to cause built or build sewage treatment facilities.

Proposed by the Aquatic Resources Committee.

Not accepted by the subcommittee.

(c) Regional Board Organization

(1) Remove statutory salary limit for regional executive officers.

Proposed by regional boards 1 and 5.

Not accepted by the subcommittee.

(2) Relieve regional boards of duty to receive water well drillers' reports required under Water Code Section 7076.

Proposed by regional boards 1 and 5.

Not accepted by the subcommittee.

NOTE: All the recommendations of the Associated Sportsmen of California as to regional boards in this area were endorsed by the California Trollers and No. 99, Sportsmen's Post of the American Legion.

The American Water Works Association approved the recommendations of the state and regional boards, and approved in principle the recommendations of the departmental committee.

The recommendations of the departmental committee were also generally endorsed by the California Wildlife Federation and the Associated Sportsmen of California.

The recommendations of the Aquatic Resources Committee were supported by the Central California Trollers Association, and by Sportsmen's Post No. 99 of the American Legion.

APPENDIX D

ANALYSIS OF PROPOSED BILL RELATIVE TO WATER POLLUTION—NO. 9737

-

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, March 5, 1959

HON. CHARLES W. MEYERS
ASSEMBLY CHAMBER

DEAR MR. MEYERS: You have asked for an analysis of the draft we prepared for you pursuant to our Request No. 9432. The proposed draft would make various revisions in the law relating to water pollution.

At the present time Section 13000 of the Water Code provides a brief policy statement relative to the control of water pollution. The proposed bill would add Sections 13000.1 through 13000.4, expanding the legislative policy statement regarding the control of water pollution. In general, the policy statement, as expanded by the proposed bill, would indicate that it is the policy of the Legislature that the waste or unreasonable use or method of use of water is to be prevented and that this specifically includes unreasonable use through the pollution of water (proposed Secs. 13000.1 and 13000.2, Wat. C.).

Specifically, the policy statement would declare that the disposal of wastes into the waters of the State is a privilege, not a right (proposed Sec. 13000.3, Wat. C.) and would further declare that statewide policies are necessary to insure adequate water quality to meet the present and future requirements for all beneficial uses of the waters of the State (proposed Sec. 13000.4, Wat. C.).

Section 13002 of the Water Code would be amended to require that no disposal of waste into any of the waters of the State would preclude future use of any water for other purposes. Section 13002, as amended, would also provide that the establishment of requirements for the discharge of waste into the waters of the State by the State Water Pollution Control Board or by a regional water pollution control board would not preclude the subsequent prescribing of higher water quality requirements applicable to the same disposal area or receiving waters. The section would also be amended to provide that a discharge, pursuant to prescribed requirements, would not create a fixed right to continue the discharge at the same quality level.

Section 13022 of the Water Code, as amended by the proposed bill, would provide that the state board, in addition to formulating, shall adopt a statewide policy for control of water pollution, and that the policy adopted should be sufficiently detailed to provide adequate quality standards in conformity with the water pollution policy declarations of the Legislature.

The State Water Pollution Control Board and the regional water pollution control boards would be required to take cognizance of and be guided by the California Water Plan or any other general or coordinated plan of the State looking toward the development and conservation of the water resources of the State, in establishing policies and in undertaking any action (proposed Secs. 13022.1 and 13052.1, Wat. C.).

Section 13025 of the Water Code, as amended by the proposed bill, would require the state board, upon finding that contamination exists and is not being corrected, to refer the condition to the State Department of Public Health, rather than to any state agency having jurisdiction.

The proposed bill would add Section 13026 to the Water Code, specifically providing for an original review, upon its own motion or upon the petition of any interested person, by the state board of any action taken by a regional board.

The proposed bill would make various alterations relative to the membership and powers of the regional water pollution control boards. Section 13041 of the Water Code would be amended to provide that the regional boards, in addition to their present membership, would include one person associated with both recreation and wildlife and one person not specifically associated with the other interests represented on the board, representing the public at large.

Under existing law (Section 13054, Wat. C.) any person proposing to discharge sewage or industrial waste, other than into a community sewer system, is required to file a report of such proposed discharge with the regional board and the regional board is then required to prescribe requirements for the proposed discharge. Thus, Section 13054 is prospective in operation and does not require reports of persons discharging waste at the effective date of the section, October 1, 1949. The proposed bill would amend Section 13054 to require the filing of a report by any person discharging waste as well as by persons proposing to discharge waste.

The proposed bill would add Section 13054.1 to the Water Code providing that any person proposing to change the character, location, or volume of a discharge of sewage or industrial waste would be required to file a report with the regional board of any material change or proposed change in the discharge system and require the establishment of requirements by the regional board relative to the modification.

Section 13054.2 of the Water Code, as added by the proposed bill, would permit a regional board to incorporate adequate safety margins in prescribing requirements for discharge. In establishing safety margins the regional board would be instructed to consider such factors as operational breakdowns or other unpredictable occurrences and adverse effects upon the preservation and propagation of fish and wildlife.

Each regional board, within its region, would be authorized to specify certain conditions and locations where no direct discharge of sewage or industrial waste would be permitted (proposed Sec. 13054.3, Wat. C.). Section 13054.4, which would be added to the Water Code by the proposed bill, would place a burden upon a discharger or a person proposing to discharge sewage or industrial waste to show the necessity for discharging at a specified location and would authorize a regional board to prohibit the discharge of waste at a particular location if necessity was not established.

Section 13055 of the Water Code would be amended by the proposed bill to provide that any person discharging sewage or industrial waste within a region, rather than only those persons responsible for meeting prescribed requirements, would be required to furnish such technical reports as the board may specify.

The proposed bill would define, as a misdemeanor, various failures to comply with state or regional water pollution control board requirements or orders (proposed Secs. 13054.5, 13054.7, and 13055.1, Wat. C.).

Pursuant to Sections 13054.6, 13054.8, and 13055.2, added to the Water Code by the proposed bill, any failure to comply with the requirements of a regional board, or to file a required report, or to comply with a request for a technical report would result in the certification of the facts of such failure to the district attorney by the regional board and the district attorney would be required to bring an action seeking an injunction restraining the discharge of any sewage or industrial waste by the person failing to comply or requiring the filing of the report.

Section 13060 of the Water Code, as amended by the proposed bill, would make discretionary, rather than mandatory, the holding of a hearing relative to any person discharging waste contrary to the requirements established by a regional board, but would make mandatory the serving of notice to all persons alleged to be creating a condition of pollution, at least 10 days before a hearing is held.

The proposed bill would add Section 13080 to the Water Code to provide that a civil action may be brought to abate a pollution or nuisance, which is transitory in nature or is of a short duration but periodic in occurrence, by the district attorney in any county in which the pollution or nuisance occurs, and would require the district attorney to bring such action upon the request of the regional board. The superior court would be given jurisdiction to order abatement of the pollution or nuisance in the same manner as a public nuisance may be abated.

Section 5652 would be added to the Fish and Game Code by the proposed bill to authorize the Department of Fish and Game to take appropriate action against water pollution, until such time as the appropriate regional water pollution control board has established requirements for the discharge of sewage and industrial waste at the particular point of discharge.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel

By KENT L. DECHAMBEAU
Deputy Legislative Counsel

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ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959
VOLUME 13 NUMBER 26

FOURTH REPORT

REPORT OF THE SUBCOMMITTEE ON
IMPACT OF ENEMY ATTACK ON ECONOMY AND CONSTITUTIONAL GOVERNMENT OF THE STATE OF CALIFORNIA

A SUBCOMMITTEE OF THE

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 53, 1956

MEMBERS OF THE COMMITTEE

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THOMAS M. REES, *Vice Chairman*

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March, 1959

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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Speaker

HON. CARLOS BEE
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Majority Floor Leader

HON. JOSEPH C. SHELL
Minority Floor Leader

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REQUEST FOR UNANIMOUS CONSENT TO PRINT IN JOURNAL

Mr. Kilpatrick was granted unanimous consent that the following letter of transmittal be ordered printed in the Journal; and 1,000 copies of the report be ordered printed as a separate document out of committee funds.

COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
CONSERVATION, PLANNING, AND PUBLIC WORKS
SACRAMENTO, March 5, 1959

HON. RALPH M. BROWN
Speaker of the Assembly
Members of the Assembly
Assembly Chamber, Sacramento

The work of the subcommittee on the Impact of Enemy Attack under the capable chairmanship of Assemblyman Vernon Kilpatrick has commanded national attention Many of the accomplishments and recommendations in the subcommittee's three previous reports have resulted in a material strengthening of the civil defense and survival program for the State and Nation.

I strongly recommend a continuation of the activities of this subcommittee in the 1959-60 interim, confident that the people of the State of California will benefit greatly.

Respectfully submitted,

THOMAS M. REES, Vice Chairman
Assembly Interim Committee on
Conservation, Planning, and Public Works

2—L-4085

SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, March 5, 1959

To the Committee on Conservation,
Planning, and Public Works
California State Assembly, Sacramento

GENTLEMEN: More than four years of extensive study have been expended by your subcommittee on the problems of succession to public office and preservation of records in view of a possible devastating enemy nuclear attack.

It is gratifying to be able to report real progress through the co-operation of the Legislature, men like Chairman J. Warren Beebe and his colleagues in the Los Angeles and State Bar Associations, capable staff assistance by Mr. James Williams, Mr. John Caswell of the office of Legislative Analyst, Professor Charles Fairman, Professor of Law in Harvard Law School, Mr. John E. McCormick, the host of witnesses who have given valuable help, and all others who have an interest in the problems and necessity of adequate civil defense.

The subcommittee has concluded after careful consideration that the scope of its activities should be expanded. There are many aspects of the civil defense problem in which a legislative committee can assist.

We would particularly stress the importance of an exhaustive review of all necessary factors involved in the site selection and construction of an alternate seat of government and State Disaster Control center.

We are deeply appreciative of the interest and co-operation of the Legislature in its consideration of our program.

Respectfully submitted,

VERNON KILPATRICK, Chairman
JACK A. BEAVER
ALLEN MILLER
BRUCE SUMNER

Subcommittee on Impact of Enemy Attack on the Economy and Constitutional Government of the State of California

FINDINGS AND RECOMMENDATIONS

The subcommittee's continued studies have been an enlargement of the work previously reported and an appraisal of work to be considered.

The problems of succession to elective office were largely cared for in the 1958 First Extraordinary Session.[1] Assembly Bills Nos. 1713, 1714 and 1867 [2] would provide for standby replacement for constitutional officers and members of the Legislature in event of their death or incapacity resulting from an enemy attack.

The matter of preservation of records at the state level was provided for in the 1958 First Extraordinary Session.[3] Additional Administrative Orders 58-9—58-16 have been issued by the California Disaster Office [4] The Department of Finance through the Organization and Cost Control Division have proceeded diligently in assisting the operating departments of the State with an appraisal and analysis of the essential records of each agency assigned an administrative order by the California Disaster Office [5]

The matter of preservation of local court records has not been resolved. Passage of Assembly Bill No. 580 [6] is recommended by this subcommittee.

To qualify for existing and possible federal matching funds in the operation of the California Disaster Office, all local disaster offices and related defense building programs, the subcommittee recommends the passage of Assembly Bill No. 1265 and Assembly Joint Resolution No. 14.[7]

The matter of judicial succession or assignment in the event of a chaotic change in our way of life due to a major disaster has not been resolved. To obtain the recommendations of those most qualified to know, the subcommittee recommends passage of Assembly Concurrent Resolution 66.[8]

In this period of our history, hourly press coverage reveals a rapidly deteriorating state of international relationship. The destructive potential of modern weapons is already supreme—by some authorities sufficient to obliterate all living things on earth. True it is that sane people and sane governments will not unleash these forces, for to destroy others is to invite their own destruction. But sanity is not a universal attribute and accidents can happen.

It would appear to the subcommittee that there is a preparedness urgency existent for the provision of an insurance policy for the people of the State and Nation to the greatest extent.

Each passing moment very possibly is bringing the hour of necessity closer.

The subcommittee subscribes fully to the fact that the function of Civil Defense is primarily a federal responsibility since no state or locality will be affected by itself and the very nature of any future war will be all consuming. The subcommittee feels, however, that urgency and equity demand a close liaison of effort and ideas from all levels of government and industry in the rapid shaping of a concise, all-en-

[1] Third Report—pages 45-57.
[2] Appendices 1, 2, 3.
[3] Third Report—pages 55, 58-72
[4] Appendices 4, 5, 6, 7, 8, 9, 10, 11.
[5] Appendix 12.
[6] Appendix 13.
[7] Appendices 14, 15.
[8] Appendix 16

compassing effort of civil preparedness. It is recognized that the job is uniquely difficult because human nature will accommodate only so much tension and strain before developing an immunity manifest by indifference. The problem then is to establish a series of procedures and methods at the ready, simple enough in concept and operation that a people thrust into a state of extreme shock and chaos, may survive in as great a number as possible and be able to recoup their forces for retaliation and reconstruction.

It is the finding of the subcommittee that, at the present time, such machinery does *not* exist although real effort is being made in that direction. It has been observed by the subcommittee staff that the layman, when giving rare thought to the problem, feels that he has provided for him the means of protection. The sad fact is that they do not at this time which, in the opinion of the subcommittee, is even a more grave indictment of the efforts so far.

The subcommittee recommends strongly increased study by a continuation of the subcommittee's activity with particular emphasis on the following:

1. Compliance. Determination that there will be active policing of the assigned duties of state operating departments and divisions. It is felt that statute and administrative directives have provided adequate authority and machinery for an effective preparedness program in the Civil Defense problem. It is believed, however, that continual review and revision of manuals and modus operandi is imperative. It is recommended that continued top level supervision be applied in all instances.

2. Liaison—Local. Effort be made to provide a stronger chain of command from the State Disaster Office to the county and city disaster offices. Staff determination has been that the local levels of government desire to be integrated as much as possible into a uniformly functioning machine. Bearing in mind the basic premise that the function of civil defense will be invoked only in a time of hysteria, shock and chaos, the procedures must be such that operations will be simple of execution and receptive to outside interim authority without question of procedural differences.

3. Liaison—Federal. Closer liaison and working relationship between the California Disaster Office and the OCDM. While there has been marked improvement in the past months, much is yet to be done. The federal responsibility is paramount. However, it will remain for the State and local agencies to bear the first shock and be able to recover.

4. Hospitals. Insofar as possible the adequacy of the emergency hospital supply and operation be determined and made public knowledge. The subcommittee has been informed that there are over 200 200-bed hospitals in storage in California. To be determined and properly publicized is their location and their erection and staffing procedures. It is probable that local training programs will be necessary taking full advantage of local professional, semiprofessional and lay talent for emergency operation.

5. Secrecy. That all aspects of restriction or secrecy be removed from information dealing with matters of civil defense. It is the conclusion of the subcommittee that a fully informed public will be more receptive to an operable civil defense plan.

6. Stockpiling. It is recommended that a complete re-evaluation of stockpiles of medicines, food, clothing, etc. be made.

Industry must be consulted and encouraged to co-operate with civil defense authorities in this important aspect. The subcommittee believes, after some consultation with representatives of industry, that they, industry, are waiting anxiously to do their part. This is not totally unselfish as their survival depends on a well conceived and executed civil defense plan.

7. Evacuation Routes. That evacuation routes and assembly centers be signed adequately and knowledge of these routes and areas be given broad publicity.

The subcommittee does not subscribe to the evacuation policy per se, since it is convinced that a surprise attack by guided missiles would make this impossible. However, it is conceivable that warning time might be available in certain circumstances and preparedness for orderly evacuation should be provided.

8. Shelters. That encouragement be given to the erection of family and community shelters Extensive tests by the AEC and private research firms has indicated a real value as protection from fallout in certain reasonably priced shelters.

It is possible some method of tax relief for those desiring to build such shelters would be worth considering.

9. Blood Banks. That the supply and storage facilities of reserve blood be studied. Recognition of the problems is made, but the importance of this item leads the subcommittee to recommend that the Department of Public Health and other interested agencies adopt a sound plan of preparation for a possible extreme demand.

10. Co-ordination With Industry. The subcommittee recommends that all possible effort be made to co-ordinate state and local defense efforts with those of industry. It has been observed that industry, particularly, transportation, petroleum products, banking and finance, food, utilities, and defense plants have done a great deal to provide for their own survival. In many instances, elaborate and costly decentralization has been established. Many of the members of industry have interrelated plans and manuals covering their emergency plans. It appears imperative that all governmental defense plans take into account those of industry in the gross meaning of the word.

ALTERNATE SEAT OF GOVERNMENT

At the present time, the campus of Chico State College in Chico, Butte County, is designated as the alternate seat of State Government and the emergency control center for disaster relief.

The subcommittee does not believe this to be adequate with respect to either location or facility. Fallout predictions by the OCDM reveal that Chico is not one of the most safe locations. It is noted also that all facilities are above ground thus rendering them subject to destruction or extensive damage by any wayward missile.

While it is true that no spot is completely safe from destruction, damage or contamination, it is felt that effort should be made to provide facilities underground. The subcommittee chairman personally has inspected underground facilities in Portland, Oregon, and Phoenix, Arizona, which were built specifically for the purpose of emergency governmental operation and disaster control direction.

The Seventh Regional Office of OCDM conducted a survey of various mines and quarries in California for possible use by their office. Of special interest to the subcommittee was their report on a limestone quarry owned by the United States Lime Products Co , one mile south of the City of Sonora, Tuolumne County [9] The OCDM has found the quarry suitable in most respects but from their point of view has three disadvantages:

"1. Distance and accessibility from Santa Rosa and San Francisco.

"2. Some expense, possibly $25,000, to prepare for occupancy.

"3. Sonora is not a major communications center."

The subcommittee chairman, accompanied by Mr. Williams of the staff, Mr. David Keller of the Legislative Analyst's Office and General Plank, engineering officer of the California Disaster Office, subsequently visited the site of the quarry. Inspection of the quarry site was done in the company of the general manager, Mr Ellsworth, Quarry Manager, Mr. McCandlish, and employees Grindell, Stephen, and Moyle. The company has indicated a willingness to co-operate with the State.

It is noted that the approximate 100-mile distance from Sacramento was driven in under two hours There is a good airport at Columbia, three miles north of the quarry. Communications could be extended to the quarry site. Power and water are available as well as nearby rail service. A 50-minute drive will put the traveler in Modesto.

It is recommended that the State Disaster Office enlist the aid of the Department of Public Works and Department of Finance for a detailed engineering and economic feasibility report on the suitability of this site for a control center, record storage center and alternate operating seat of government.

[9] Appendix 17.

It is recommended further that consideration be given to the possible use of any such facility by branches of State Government which could so do without impairing their function. This application of use should aid in the justification of such a facility.

Federal matching funds are available on a 50-50 basis for such facilities.

Closely related to the establishment of a control center is the provision of shelter areas in any contemplated state building. Legislation pending in Congress would provide financial assistance to the State for the inclusion of approved shelter areas. It is recommended that the Department of Public Works and the Department of Finance investigate this possible adjunct to its capital outlay plans.

Finally, the subcommittee recommends that all county and local governments investigate the possibility of establishing their own dispersed sites of government and control centers.[10]

[10] Third Report—pages 20 and 22.

CONTINUITY OF CIVIL GOVERNMENT

The action taken by the California Legislature through statute and constitutional amendment has put California into the forefront of state and local governments.[11]

The Office of Civil and Defense Mobilization and the American Bar Association have recognized the vital necessity for proper consideration of establishing continuity of civilian government—judicial, legislative, and executive—and the continuation of civil law and order in the event of atomic attack, as an important measure in preparing for survival and revival and avoiding martial law in case of atomic attack, and as a deterrent to attack.[12]

[11] Third Report of Subcommittee on Impact of Enemy Attack, June, 1958
[12] Appendix 18.

APPENDICES

APPENDIX 1

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1713

Introduced by Mr. Kilpatrick
(By request)

February 27, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Chapter 7 (commencing with Section 12700) to Part 2 of Division 3 of Title 2 of the Government Code, relating to succession of the Offices of Lieutenant Governor, Secretary of State, Attorney General, Treasurer and Controller in the event of war or enemy-caused disaster.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 7 (commencing at Section 12700) is
2 added to Part 2 of Division 3 of Title 2 of the Government
3 Code, to read:
4
5 CHAPTER 7. SUCCESSION TO CONSTITUTIONAL OFFICES IN THE
6 EVENT OF WAR OR ENEMY-CAUSED DISASTER
7
8 12700. As used in this section "disaster" means a war or
9 enemy-caused calamity, such as an attack by nuclear weapons,
10 which renders unavailable the Lieutenant Governor, or the
11 Attorney General, or the Secretary of State, or the Treasurer,
12 or the Controller. "Unavailable" means that any such officer
13 is either killed, missing or so seriously injured as to be unable
14 to perform his duties.
15 12701. As soon as practicable after the effective date of this
16 chapter, and thereafter as soon as practicable after his election

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1713 as introduced, Kilpatrick (N. R., P., & P. W.). Succession to the offices of the constitutional officers.

Adds Ch. 7 (commencing at Sec. 12700), Pt. 2, Div. 3, Title 2, Gov. C.

Specifies that each of the constitutional officers, other than the Governor, shall appoint at least three and not more than seven persons as successors to the office in the event that such officer is unavailable as a result of a disaster.

Provides that in the event of a war or enemy-caused disaster in which a vacancy occurs in any of these offices, one of the persons so named, in the order specified in their appointment, shall fill that office, with all of the powers and duties of that office.

and qualification to office, each of the constitutional officers named in Section 12700 shall appoint and designate by filing with the Secretary of State the names of at least three and not more than seven citizens qualified to become candidates to the office as their respective successors in the event that such officer is unavailable as a result of disaster. Any such appointee may be replaced by the appointing officer at any time and for any reason. The appointees of the Attorney General may include persons holding the Office of Assistant Attorney General. The appointees of the Controller, Secretary of State, and Treasurer may include persons holding office as their deputies or assistants.

In making appointments each constitutional officer shall give consideration to the places of residence and employment of his appointees and shall appoint from different parts of the State so that for each office for which appointments are made there shall be the greatest probability of survival in the event of a disaster of some or all of the appointees.

Each person appointed as provided in this section shall take the oath of office and shall deliver to the Secretary of State within 30 days after his appointment a written declaration under oath that he accepts the appointment and that he will faithfully perform the obligations imposed upon him thereby.

12702. If any constitutional officer who has appointed successors as provided in this chapter becomes unavailable because of a disaster, the powers and duties of his office shall devolve upon one of his appointees in the order which he specified in making the appointments and such person shall declare that he is undertaking the duties of the office and take and subscribe the oath therefor; provided, however, that any appointee so designated may declare that he is undertaking the office and take the prescribed oath if no person prior in such order of succession enters upon the office within seven days after the incumbent thereof becomes unavaliable.

12703. The Attorney General, Secretary of State, Treasurer and Controller shall, in addition to the appointments required to be made by 12701, designate the order in which persons holding office as their deputies or assistants, and not appointed under 12701, shall serve as their respective successors in the event that such officer and the successors appointed by him under 12701 are unavailable as a result of disaster. If any such officer and the successors appointed by him under 12701 are unavailable as a result of disaster, the powers and duties of his office shall devolve upon one of such deputies or assistants in the order designated and such person shall declare that he is undertaking the duties of the office and take and subscribe the oath therefor; provided, however, that any such deputy or assistant may declare that he is undertaking the office and take the prescribed oath if none prior in order of succession enters upon the office within seven days after the incumbent thereof becomes unavailable.

1 12704. Any such person shall, while holding the office, be
2 known as Acting Lieutenant Governor, Acting Attorney Gen-
3 eral, Acting Secretary of State, Acting Treasurer, and Acting
4 Controller, as the case may be, and shall perform the duties of
5 the office and receive the salary and perquisites thereof while
6 so serving, but shall not be deemed to hold that office within
7 the meaning of Section 16 of Article V of the Constitution
8 relating to succession to the governorship. Each such acting
9 constitutional officer shall continue to serve as such until the
10 disabled officer resumes his office, or a person prior in the order
11 of succession declares that he is undertaking the office and
12 takes the oath therefor, or until the office is filled at the next
13 election that is held for that office and a person is elected and
14 qualifies for the particular constitutional office.

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APPENDIX 2

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1714

Introduced by Mr. Kilpatrick
(By request)

February 27, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Article 5 (commencing with Section 12050) to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, relating to succession to the Office of Governor in the event of war or enemy-caused disaster.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 12050) is
2 added to Chapter 1 of Part 2 of Division 3 of Title 2 of the
3 Government Code, to read:
4
5 Article 5. Succession to the Office of Governor in the Event
6 of War or Enemy-caused Disaster
7
8 12050. As used in this section "disaster" means a war or
9 enemy-caused calamity occurring in the State of California,
10 such as an attack by nuclear weapons, as a result of which the
11 incumbent Governor is either killed, missing or so seriously
12 injured as to be unable to perform his duties.
13 12051. As soon as practicable after the effective date of
14 this article, and thereafter as soon as practicable after his elec-
15 tion and qualification to office, the Governor shall appoint and
16 designate by filing with the Secretary of State the names of

LEGISLATIVE COUNSEL'S DIGEST

A. B 1714 as introduced, Kilpatrick (N. R, P., & P. W.). Succession to the Office of Governor.

Adds Art 5 (commencing at Sec. 12050), Ch. 1, Pt. 2, Div. 3, Title 2, Gov. C.

Specifies that the Governor shall appoint at least four and not more than seven persons as Disaster Acting Governors.

Provides that in the event of a war or enemy-caused disaster in which a vacancy in the Office of Governor is not filled within 24 hours in the manner provided for in Sec. 16 of Art. V of the Constitution, one of the acting governors, in the order specified in their appointment, shall fill the office, with all the powers, duties, perquisites, and salary of that office.

at least four and not more than seven citizens qualified to become candidates for the office to succeed, in the order specified, to the Office of Governor in the event of disaster. Any such appointee may be replaced by the Governor at any time and for any reason.

In making appointments the Governor shall give consideration to places of residence and employment of the appointees and shall appoint from different parts of the State so that there shall be the greatest probability of survival in a disaster.

Each person appointed as provided in this section shall take the oath of office and shall deliver to the Secretary of State within 30 days after his appointment a written declaration under oath that he accepts the appointment and that he will faithfully perform the obligations imposed upon him thereby and shall thereupon be designated Disaster Acting Governor.

12052. In the event that the Office of Governor is not filled within 24 hours after disaster as provided in Section 16 of Article V of the Constitution, one of the Disaster Acting Governors, in the order specified, shall fill said office and shall declare that he is undertaking the duties thereof and take and subscribe the oath therefor and continue to serve therein until the incumbent Governor is able to perform his duties or until his successor is chosen and qualifies or until a person prior in the order of succession declares that he is undertaking the office and takes the oath therefor. Any Disaster Acting Governor may declare that he is undertaking the Office of Governor and take the prescribed oath if no person prior in the order of succession fills said office within 24 hours after disaster.

12053. Each Disaster Acting Governor shall, while filling the Office of Governor, have the powers, perform all the duties, and receive the salary and perquisites of said office.

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APPENDIX 3

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1867

Introduced by Mr. Kilpatrick
(By request)

March 6, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Article 8 (commencing with Section 9144) to Chapter 1 of Part 1 of Division 2 of Title 2 of the Government Code, relating to succession of the offices of Legislature in the event of war or enemy-caused disaster.

The people of the State of California do enact as follows:

1 SECTION 1. Article 8 is added to Chapter 1 of Part 1 of
2 Division 2 of Title 2 of the Government Code, to read:
3
4 Article 8. Succession to Offices of the Legislature in the
5 Event of War or Enemy-caused Disaster
6
7 9144. As used in this article "disaster" means a war or
8 enemy-caused calamity occurring in the State of California,
9 such as an attack by nuclear weapons, which renders unavail-
10 able at least one-fifth of the incumbent members of either
11 house of the Legislature. "Unavailable" means that any such

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1867 as introduced, Kilpatrick (N. R., P., & P. W.). Succession to Legislature.

Adds Art. 8 (commencing at Sec. 9144), Ch. 1, Pt. 1, Div. 2, Title 2, Gov. C.

Provides for alternative methods of temporarily filling vacancies in Legislature resulting from war or enemy-caused disaster.

Authorizes each member to appoint not more than three alternate successors to serve if he is unavailable, and prescribes procedure and manner of qualifying. If a member does not appoint a successor of the latter does not appear to serve, the vacancy may be filled temporarily by the remaining members of the house. If the house does not fill the vacancy then, within specified times and circumstances, an acting member may be appointed alternately by (a) the chairman of certain local boards of supervisors, (b) the mayor of certain cities within 150 miles of the member's residence, or (c) the Governor.

The acting member shall perform the duties and receive the salary and prerequisites of the office, and shall serve until the incumbent becomes able to perform his duties or until his successor is chosen and qualifies.

1 member is either killed, missing or so seriously injured as to
2 be unable to perform his duties.
3 9145. Each Member of the Legislature may appoint and
4 designate by filing with the Secretary of State the names of
5 not more than three citizens as their respective successors in
6 the event that such member is unavailable as a result of dis-
7 aster. The names of the persons so appointed shall be printed
8 in the Journal of the appropriate house. Any such appointee
9 may be replaced by the appointing officer at any time and for
10 any reason. Each appointee shall be of the same political party
11 as the member and shall be qualified to become a candidate for
12 the office, except that an appointee need not be a resident of
13 the district represented by the member if he is a former resi-
14 dent thereof.
15 Each appointee shall take the oath of office and shall deliver
16 to the Secretary of State within 30 days after his appointment
17 a written declaration under oath that he accepts the appoint-
18 ment and that he will faithfully perform the obligations im-
19 posed upon him thereby.
20 9146. If any Member of the Legislature who has appointed
21 successors as provided in this article becomes unavailable be-
22 cause of a disaster, the powers and duties of his office shall
23 devolve upon one of his appointees in the order which he
24 specified in making the appointments and such person shall
25 declare that he is undertaking the duties of the office and take
26 and subscribe the oath therefor; provided, however, that any
27 appointee so designated may declare that he is undertaking
28 the office and take the prescribed oath if no appointee prior
29 in such order of succession enters upon the office within seven
30 days after the incumbent thereof becomes unavailable.
31 9147. If, when the Legislature is convened in extraordi-
32 nary or general session pursuant to Article 2.5 of this chapter,
33 no appointee enters upon the office within a reasonable time
34 after the incumbent thereof becomes unavailable the vacancy
35 may be temporarily filled as provided in Section 9004.
36 9148. If any Member of the Legislature who has not ap-
37 pointed successors as provided in this article becomes unavail-
38 able because of disaster and the vacancy in his office has not
39 been temporarily filled as provided in Section 9004 within two
40 months following such disaster, the powers and duties of his
41 office shall devolve upon a person chosen as follows:
42 First: By the chairman of the board of superviors of the
43 county within which the district represented by the member is
44 located. If the district represented by the member includes
45 more than one county and there is more than one chairman
46 of a board of supervisors who can make the appointment, the
47 chairman whose last name starts with the lowest letter in the
48 alphabet shall make the appointment. If such chairman does
49 not choose such person within 75 days following a disaster;
50 then,
51 Second: By the chairman of the board of supervisors of
52 any other county within 150 miles of the member's residence

1 beginning with the county whose county seat is nearest the
2 member's residence and going to the county whose county seat
3 is farthest from the member's residence. If such chairman does
4 not choose such person within 80 days following a disaster;
5 then,
6 Third: By the mayor of any city within 150 miles of the
7 member's residence beginning with the city whose city hall is
8 nearest the member's residence and going to the city whose
9 city hall is farthest from the member's residence. If such
10 mayor does not choose such person within 90 days following
11 a disaster; then
12 Fourth: By the Governor.
13 Persons shall be chosen, under the authority of this section,
14 so that each assembly or senatorial district shall be repre-
15 sented, if possible, by an acting member who is a resident of
16 that district and a registered elector of the same political party
17 as of the date of the disaster as the last duly elected member
18 from such district.
19 9149. Any such person upon whom have devolved the
20 powers and duties of a Member of the Legislature shall be
21 known as Acting Assemblyman or Acting Senator, as the case
22 may be, and shall perform the duties of the office and receive
23 the salary and perquisites thereof while so serving and shall
24 continue to serve until the incumbent becomes able to perform
25 his duties or until his successor is chosen and qualifies for that
26 office.

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APPENDIX 4

ADMINISTRATIVE ORDER NO. 58-9

Executive Order No. 58-CD-1, issued April 2, 1958 provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Executive Order, the Department of Corrections is assigned responsibility for rendering assistance in the mass care program of the California Disaster Office and, in addition, will advise on technical matters which fall within the province of the Department. Such responsibilities are hereby defined as follows:

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such mass care assistance shall include, but not be limited to, the following:
   (1) The provision of lodging and shelter for disaster victims and the preparation and serving of food, where practical, in available areas and facilities under the control of the Department.
   (2) The readying of such mass care facilities to assure proper sanitation and other necessities required in connection with the provision of lodging and food.

2. During a state of extreme emergency, the director of the Department shall assign, to the extent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, competent personnel of the Department to serve at the State, regional, and sector levels of the California Disaster Office, as may be required.

3. During a state of disaster, as proclaimed by the Governor, the Department shall, upon request of the Director, California Disaster Office, to the extent its available personnel and resources permit, assign such competent personnel as may be required to advise and give technical assistance to the Director of the California Disaster Office and to its regional and sector co-ordinators, on matters within the cognizance of the Department, and to maintain liaison and channel intelligence between the Department and the California Disaster Office.

4. The Department shall provide the necessary training for personnel so assigned, under the supervision of the Department's Director or of such officers or employees of the Department as the Director may

designate to supervise said training, and shall make such personnel available for test exercies.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and co-ordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 5

ADMINISTRATIVE ORDER NO. 58-10

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Executive Order, the Department of Natural Resources is assigned responsibility for assistance in the mass care, firefighting and rescue programs of the California Disaster Office and, in addition, will advise on technical matters which fall within the province of the Department. Such responsibilities are hereby defined as follows:

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such mass care assistance shall include, but not be limited to, the following:
   (1) The provision of lodging and shelter for disaster victims and the preparation and serving of food, where practical, in available areas and facilities under the control of the Department.
   (2) The readying of such mass care facilities to assure proper sanitation and other necessities required in conjunction with the provision of lodging and food.

c. Such fire-fighting and rescue functions shall include, but not be limited to, the organization and integration of the Department's capabilities in these fields into the statewide civil defense program during a state of disaster or a state of extreme emergency.

2. During a state of extreme emergency, the Director of the Department shall assign, to the extent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, competent personnel of the Department to serve at the State, regional and sector levels of the California Disaster Office, as may be required.

3. During a state of disaster, as proclaimed by the Governor, the Department shall assign, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector co-ordinators, on matters within the cognizance of the Department.

4. The Department shall provide the necessary training for personnel so assigned, under the supervision of the Department's Director or of such officers or employees of the Department as the Director may designate to supervise said training, and shall make such personnel available for test exercises.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and co-ordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 6

ADMINISTRATIVE ORDER NO. 58-11

Executive Order No 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Executive Order, the Department of Mental Hygiene is assigned responsibility for assistance in the mass care program of the California Disaster Office and, in addition, will advise on technical matters which fall within the province of the Department. Such responsibilities are hereby defined as follows:

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such mass care assistance shall include, but not be limited to, the following:
   (1) The provision of lodging and shelter for disaster victims and the preparation and serving of food, where practical, in available areas and facilities under the control of the Department.
   (2) The readying of such mass care facilities to assure proper sanitation and other necessities required in conjunction with the provision of lodging and food.

2. During a state of extreme emergency, the Director of the Department shall assign, to the extent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, competent personnel of the Department to serve at the State, regional and sector levels of the California Disaster Office, as may be required.

3. During a state of disaster, as proclaimed by the Governor, the Department shall assign, upon request of the Director, California Disaster Office, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector co-ordinators, on matters within the cognizance of the Department, and to maintain liaison and channel intelligence between the Department and the California Disaster Office.

4. The Department shall provide the necessary training for personnel so assigned, under the supervision of the Department's Director or of such officers or employees of the Department as the Director may designate to supervise said training, and shall make such personnel available for test exercises.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and co-ordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958

/s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958

/s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 7

ADMINISTRATIVE ORDER NO. 58-12

Executive Order No 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Executive Order, the Department of Water Resources is assigned responsibility for assisting the Engineer Division of the California Disaster Office in flood control and flood-fighting activities under conditions of a state of disaster or a state of extreme emergency. Such responsibility is hereby defined as follows:

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Flood control and flood-fighting shall include but shall not be limited to, the operation and maintenance of the physical works of flood control, such as levees, weirs, control structures, channels, by-passes, or temporary works for the prevention of overflow.

2. To the extent its available personnel and resources permit, and as provided in Section C of Executive Order 58-CD-1, the Department shall assign competent personnel of the Department to serve at State, regional and sector offices of the California Disaster Office, to advise and give technical assistance to the Director of the California Disaster Office and to its regional and sector coordinators on flood control and flood-fighting operations, and to maintain liaison and channel intelligence between the Department and the California Disaster Office.

3. The Department shall provide the necessary training for personnel so assigned, and shall make such personnel available for test exercises.

4. The Director of the California Disaster Office shall provide basic assumptions, criteriá, and standards relating to said responsibilities and shall review and coordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 8

ADMINISTRATIVE ORDER NO. 58-13

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Executive Order, the California Aeronautics Commission is assigned responsibility for the activities of the Air Section of the Transportation Division of the California Disaster Office. Such responsibility is hereby defined as follows:

1. The Commission shall prepare to use, and use, the available resources of the Commission, as defined in this Order, and such other

resources as may be made available for such purpose, to perform air transportation functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Commission are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Commission, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such air transportation activities shall include but not be limited to planning for and directing all matters affecting air transportation within the state insofar as they pertain to disaster or civil defense activities during a state of disaster or a state of extreme emergency.

2. During a state of extreme emergency the Director of the Aeronautics Commission shall be the Chief of the Air Section, Transportation Division, California Disaster Office.

a. To the extent his available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, the Director of Aeronautics shall assign competent personnel to serve on the staff of the California Disaster Office.

b. The Director of Aeronautics shall provide the necessary training for personnel so assigned, and shall make such personnel available for test exercises.

3. During a state of disaster, as proclaimed by the Governor, performance of air transportation activities shall be coordinated by the California Disaster Office. The Director of Aeronautics shall assign, to the extent his available resources permit, such competent personnel as may be required to advise and give technical assistance to the Director of the California Disaster Office and to its regional and sector coordinators on air transportation activities, and to maintain liaison and channel intelligence between the Commission and the California Disaster Office.

4. The Director of Aeronautics shall advise and give technical assistance to the staff of the California Disaster Office in the development of statewide, regional and local plans related to emergency air transportation activities.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards relating to said responsibilities and shall review and coordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958

/s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958

/s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 9

ADMINISTRATIVE ORDER NO. 58-14

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said Eecutive Order, the Department of Youth Authority is assigned responsibility for rendering assistance in the mass care and medical care programs of the California Disaster Office and in the fields of transportation and communications.

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during the a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Such mass care assistance shall include, but shall not be limited to, the following:
   (1) the provision of lodging and shelter for disaster victims and the preparation and serving of food, where practical, in available areas and facilities under the control of the Department.
   (2) the readying of mass care facilities to assure proper sanitation and other necessities required in connection with the provision of lodging and food.

c. Such medical care assistance shall include, but shall not be limited to, the following:
   (1) the provision of first-aid or emergency hospital facilities under the control of the Department.
   (2) the readying of such facilities to assure proper sanitation and other necessities in connection with the provision of medical care.

d. Such emergency transportation and communications assistance will include the utilization of available existing departmental facilities as required by local civil defense authorities.

2. During a state of extreme emergency, the Director of the Department shall assign, to the extent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, competent personnel of the Department to serve at the State, regional, and sector levels of the California Disaster Office, as may be required.

3. During a state of disaster, as proclaimed by the Governor, the Department shall, upon request of the Director, California Disaster Office, to the extent its available personnel and resources permit, assign such competent personnel as may be required to advise and give technical assistance to the director of the California Disaster Office and

to its regional and sector coordinators, on matters within the cognizance of the Department, and to maintain liaison and channel intelligence between the Department and the California Disaster Office.

4. The Department shall provide the necessary training for personnel so assigned, and shall make such personnel available for test exercises.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and coordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 10, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 11, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 10

ADMINISTRATIVE ORDER NO. 58-15

Executive Order No. 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a State agency, with the approval of the Governor.

In accordance with said executive order, the Department of Social Welfare is assigned responsibility for assistance in the Emergency Welfare Services program of the California Disaster Office and, in addition, will advise on technical matters which fall within the province of the Department. Such responsibilities are hereby defined as follows:

1. The Department shall prepare to use, and use, the available resources of the Department, as defined in this Order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

a. Available resources of the Department are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the Department, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Emergency Welfare Services shall include, but shall not be limited to, the designation of qualified Department employees to:
   (1) co-ordinate and supervise emergency aid and services provided through local government;
   (2) act for the State in the receipt, disbursement, and accountability of Federal funds made available for emergency welfare services; and
   (3) assist, as required, local government in the administration of emergency aid and services.

2. During a state of extreme emergency, the Director of the Department shall assign, to the exent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1,

competent personnel of the Department to serve at the State, regional and sector levels of the California Disaster Office, as may be required.

3. During a state of disaster, as proclaimed by the Governor, the Department shall assign, upon request of the Director, California Disaster Office, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector coordinators, on matters within the cognizance of the Department, and to maintain liaison and channel intelligence between the Department and the California Disaster Office.

4. The Department shall provide the necessary training for personnel so assigned, under the supervision of the Department's Director or of such officers or employees of the Department as the Director may designate to supervise said training, and shall make such personnel available for test exercises.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and coordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 16, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 18, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 11

ADMINISTRATIVE ORDER NO. 58-16

Executive Order No 58-CD-1, issued April 2, 1958, provides in part that the Director of the California Disaster Office may assign specific civil defense and/or disaster responsibilities to a state agency, with the approval of the Governor.

In accordance with said Executive Order, the Division of Industrial Safety, Department of Industrial Relations, is assigned responsibility for assistance in the radiological safety and facility protection programs of the California Disaster Office and, in addition, will advise on technical matters which fall within the province of the division. Such responsibilities are hereby defined as follows:

1. The division shall prepare to use, and use, the available resources of the division, as defined in this order, and such other resources as may be made available for such purposes, to perform assigned functions, as needed, during a state of disaster or a state of extreme emergency.

   a. Available resources of the division are hereby defined as those resources, including the personnel, equipment, supplies, and facilities, not required for the performance of essential normal functions of the division, as provided in Section A-2 of Executive Order No. 58-CD-1.

b. Radiological safety assistance shall include, but shall not be limited to, the training and utilization of qualified division employees as radiological monitors.

c. Facility protection responsibilities shall include, but shall not be limited to, the supplying of information and advice to industrial plant managers as to steps which should be taken to provide a program for self-help in the event of a disaster.

2. During a state of extreme emergency, the chief of the division shall assign, to the extent the available personnel and resources permit, and as provided in Section C of Executive Order No. 58-CD-1, competent personnel of the division to serve at the state, regional and sector levels of the California Disaster Office as may be required.

3. During a state of disaster, as proclaimed by the Governor, the division shall assign, upon request of the Director, California Disaster Office, to the extent its available personnel and resources permit, such competent personnel as may be required to advise and give technical assistance to the Director, California Disaster Office, and to its regional and sector co-ordinators, on matters within the cognizance of the division, and to maintain liaison and channel intelligence betwen the division and the California Disaster Office.

4. The division shall provide the necessary training for personnel so assigned, under the supervision of the chief of the division or of such officers or employees of the division as the chief may designate to supervise said training, and shall make such personnel available for test exercises.

5. The Director of the California Disaster Office shall provide basic assumptions, criteria, and standards related to said responsibilities and shall review and co-ordinate the carrying out of such responsibilities.

The provisions hereof shall become effective upon the date of approval by the Governor.

Date: July 16, 1958 /s/ STANLEY PIERSON
Director
California Disaster Office

APPROVED: July 18, 1958 /s/ GOODWIN J. KNIGHT
Governor of California

APPENDIX 12

DEPARTMENT OF FINANCE REPORT

STATE OF CALIFORNIA
DEPARTMENT OF FINANCE
SACRAMENTO 14, February 2, 1959

ASSEMBLYMAN VERNON KILPATRICK
State Capitol, Sacramento 14, California

DEAR MR. KILPATRICK: In view of the interest you have taken in the preservation of essential state records I would like to tell you of the progress that has been made and review our plan for further action in this field.

We have defined "essential records" and developed a procedure which helps us identify them. This procedure has been applied in our

review of essential records in all of the agencies designated by the California Disaster Office as having a state-of-emergency mission. Our activity in this field has, in several agencies, encouraged their attention not only to essential records, but to their larger responsibility for adequate planning for emergency operations.

The enclosed report relates the progress made and the plan for subsequent work in this field. It is our belief that as work progresses and as agency plans for emergency operations develop, a better procedure may be devised for the evaluation of essential records. The essential records law of 1958 was timely and has helped stimulate action.

We look forward to the implementation of records preservation programs in phase one through issuance of the attached report and through co-operation with the California Disaster Office in review of agency defense plans. As described in the report our plan is to review next the fiscal, personnel and retirement records.

The report also contains suggestions as to how your essential records law of 1958 might be strengthened and improved, in the light of the first year's experience. Please feel free to use these comments, or any other portions of the attached report, in any manner you deem appropriate.

Sincerely,

BERT W. LEVIT
Director of Finance

Survey 1029

PROGRESS REPORT
ESSENTIAL RECORDS SURVEY

The Organization and Cost Control Division, Department of Finance, has been directed to develop a plan for the preservation of essential state records which should survive an enemy attack or other major disaster (see Attachment I). On April 2, 1958, the Governor issued an executive order (No. 58-CD-1) on the subject of state operations during a period of disaster or extreme emergency. This order listed the general responsibilities which he was imposing on all state agencies to prepare themselves for the carrying out of essential functions and, among other things, directed them to make plans for the protection and maintenance of vital public records and documents (Attachment II). Later, administrative orders were issued to 16 state agencies assigning specific civil defense responsibilities (Attachment III).

At about the same time the Legislature passed, and the Governor signed AB 73 (Statutes 1958, Chapter 63, First Extraordinary Session; codified as Section 12265, Government Code—Attachment IV). This law provides that each state agency, with the concurrent of the Department of Finance, shall identify its essential records and provide for reproduction of such records in a manner determined by the Department of Finance, and that such reproductions shall be stored by the Secretary of State.

In summary, we find that each state agency is now required by law or executive order to make plans for the protection of:

1. Vital public records (Executive Order, Section A.1.c.)

2. Any records needed for the carrying on of a normal service which is necessary on an emergency basis in event of attack or disaster (Executive Order, Section A.2.)
3. Any records needed to perform the specific civil defense and disaster responsibilities described in an administrative order (Executive Order, Section C.)
4. Any state records that are essential to the functioning of the State Government in the event of a major disaster that would result in the destruction of the records, including any records that are highly important and that would be costly to reproduce or reconstruct (these records, with the concurrence of the Department of Finance, shall be reproduced and stored by the Secretary of State, Government Code, Section 12265).

It would appear from the above that all essential records must be either:

1. Moved out of target areas, or
2. Copied, and the copies placed outside of target areas, or
3. Reproduced, and the reproduction stored by the Secretary of State.

This conclusion is reached through application of the combined requirements of the Executive Order and Government Code Section 12265. However, as discussed below, it would be desirable to amend the Government Code so as to provide a single comprehensive requirement in respect to mode of preservation or protection of records deemed essential.

What Records Are Essential

In developing a plan for this survey it was found necessary first to define the term "essential records." It was considered inadvisable to use a narrow definition of the term "records," because doing so might inadvertently cause oversight of some significant material. The definition used is from the State Administrative Manual, Section 1601.1.

> "Records include: papers, books, maps, exhibits, correspondence, photographic films and prints, and other documents which are produced, received, owned, used or to be used by an agency in performing its functions, and which are filed or to be filed in the agency."

A definition of "essential records" was then developed to embrace two categories of such records: records essential to emergency government, and records not essential to emergency government but essential to the resumption of normal government.

In the first category records are either essential or nonessential only with respect to the program in which they are used. It is therefore necessary to identify essential state government programs. For the purposes of this survey the most essential programs or agencies were regarded as those identified in the administrative order written by the California Disaster Office. As those programs are basic to the control of an emergency situation resulting from enemy attack they received first attention. Later, the survey will search for other essential func-

tions not related directly to civil defense, then determine what records, if any, are required for the performance of such functions under emergency conditions.

It appeared that some classes of records should be studied on a government-wide basis, rather than in each agency using such records; for example, fiscal records and personnel records. It is also important that consideration be given to records which have no essential role during an emergency but which would be valuable during a period of reconstruction and resumption of government services.

Attention should be given at this point to the *records* focus of this survey, and to the dependency of records decisions on program decisions. It is necessary to rely heavily on agency program directors, at the bureau, division and department level, to determine what programs are essential, how they are to be carried out, and what records are needed for the emergency performance of such programs. This is not to imply that every agency proposal for records preservation would be unquestioningly accepted. The records focus is stressed because this was the special interest limit within which this survey was made. Our concern was with records requirements of disaster preparation.

It was decided that the survey should be restricted to the executive branch of State Government, exclusive of the Governor's Office.

Phases of the Essential Records Survey

As the problem became better defined, the essential records survey was organized into four phases:

1. Identification of records essential for state-of-emergency control functions (the 16 administrative orders).
2. Identification of essential state fiscal records and essential personnel and retirement records.
3. Identification of records essential only to the performance of normal services which are so important that they must be carried on during an emergency.
4. Identification of records not otherwise included, which would be valuable for reconstruction and resumption of State Government.

General Conclusions—First Phase

The first phase has been completed; all of the 16 agencies have been contacted and a review made of the agencies' plans for carrying out the responsibilities imposed by the administrative orders. Some general conclusions may be drawn from the experience to date:

1. *Very few records are deemed essential in an emergency.* Without exception the primary needs to carry out emergency assignments are personnel and equipment. In only one case did we find a need for filed paper records. In another agency a study was made of four significant record groups to verify agency belief that the records would not be useful in a period of emergency. (This belief was confirmed.)
2. State-of-emergency manuals developed by certain agencies materially help to clarify the plan of agency operations in a disaster, including the requirements of preserving records needed for emer-

gency functions. The more comprehensive of these manuals have the following features:

a. Authority. They express the policy of the agency head.
b. Mission defined. The agency's disaster program objective is stated completely, clearly and concisely.
c. Method. The plan under which the agency expects to carry out its assigned mission is spelled out in some detail.
d. Communication. There is general knowledge and understanding among the staff of the state-of-emergency plan.
e. Distribution. Multiple copies of the manual are produced and widely distributed within agency. At low cost this provides a large measure of dispersal to places outside of assumed target areas.
f. Revision plan. Incorporated in the manual plan are provisions for amendment to keep the manual current.

3. There is some indication that reference data could be of more value in a period of emergency than some of the basic record systems. Reference data is not always considered record material in a using agency. Yet the reference material may be as important to the agency program as is its equipment. Where this is true, it might be well to develop a plan to assure the availability of the reference material in time of emergency need.

Summarized reports of the essential records for the emergency program assignments in the first 16 administrative orders are shown in Attachment V.

Approaches to Preservation

As stated above, the combined requirements of the executive order and the Government Code are that all essential records must be either moved out of target areas; or copied and the copies placed outside of target areas; or reproduced and the reproductions stored by the Secretary of State. The Government Code (Section 12265) specifically mentions microfilming, authentic reproduction, reproduction by electronic process, and punch cards.

Few essential record groups could be summarily moved out of target areas without seriously disrupting the use pattern of the records and increasing costs of use and possibly of storage. Except for some rare cases, this is not a good method of preservation.

Many record groups could be copied and the copy stored outside of a target area, leaving the original at the normal point of use. This is frequently the only available method of preservation. Two significant questions then arise: how shall the records be copied and where shall the copy be stored? The first question can be answered only with respect to a particular record group. Microfilming may be advanced as a suitable copying method for static records but may not be adaptable for relatively dynamic records, because a microfilm transcript, once made, must be continually amended or it soon ceases to be an accurate copy of the record. This is particularly true of records which are continually being revised. It is slightly less true where there are continual additions to be interfiled in the original record groups. Still, there are some cases where microfilm appears to present a feasible method of copying and storing.

In some record groups the production of current original records in duplicate may eventually provide the most economical method of duplicating the record group.

As most of the essential records are now located within assumed target areas, the problem of storage of records (or microfilm or reproductions) outside of target areas is yet to be solved. The Government Code states that "such material shall then be stored by the Secretary of State in such places within the State as he determines to be appropriate." The present program provides for storing such material in rented space in a commercial vault near Felton, in the Santa Cruz Mountains. This may be the best available storage facility, but it is suggested that some thought be given to the wisdom of storing all the essential records at one site, which may not be readily accessible to the auxiliary seat of State Government, or to the auxiliary headquarters of a state agency, if that is a different place.

As may be seen from the reports in Attachment V, the most significant of the essential records so far encountered are the agency defense plans. In many cases these have been duplicated and dispersed to branch offices in various parts of the State. Dispersal, in itself, has provided a special kind of protection. Though not available as a method of preservation for all kinds of essential records, it merits serious consideration wherever applicable. Some records, currently accumulating, are prepared in multiple, with copies filed in branch offices as well as in the state headquarters. With such dispersal a localized disaster, even at the state headquarters, will not destroy all records. Dispersal frequently fits in with the normal use pattern of records and has this important advantage over a preservation method superimposed on the normal pattern. A record system which is not invoked until a disaster occurs would appear less reliable than a plan which uses regular manuals and field offices of the agency.

When the emergency arrives and the agency wants to use its essential records, some problems may arise: how are the stored records to be transported several hundred miles to the point of use? How are microfilmed records to be used—by viewing on microfilm readers or by the reproduction of paper prints from the microfilm images? Obviously, such problems do not exist where the only essential record is a widely dispersed defense manual. Where other records are involved, vault storage of microfilm may imply the procurement and maintenance on a standby basis of specialized equipment.

Finally, it should be pointed out that any preservation system which requires elaborate machinery or rare skills to use or reproduce the preserved records should be avoided. To some degree this objection applies to microfilm viewing and printing devices. It would be costly to maintain standby equipment outside of the target areas in such a place that would be reachable and inhabitable. An extreme example is the electronic data-processing system in the State Department of Employment which is constructed around an IBM Type 705 located in the center of Sacramento, a target area. The material cost of the system, the skills required in its operation and the great volume of transactions handled by the equipment combine to make consideration of a standby facility unrealistic.

In general, the most suitable method of preserving a given record group may be determined only after a study of the records and their normal use and a study of the way in which the records are to be used during a state of emergency.

Comments About the Essential Records Law

The enactment of Section 12265, Government Code, was timely, and is producing appropriate action. However, we suggest that thought be given to amending this law to correct three weaknesses:

1. "Essential" records may be defined as above (WHAT RECORDS ARE ESSENTIAL).
2. The specific term "microfilming" and the terms "authentic reproduction" and "reproduction by electronic process" be replaced by the word "preservation," allowing wider discretion as to means.
3. It should not be mandatory that the Secretary of State store all essential records, but it would be desirable that the Secretary of State provide appropriate storage facilities for essential records of agencies in need of such services.

Amendment of the law along these lines would, we believe, strengthen the statutory basis for preservation of records against major disaster by state agencies. The experience to date in the implementation of the law suggests that dispersal, a low cost and highly effective approach to preservation, should be fully supported by the wording of the law.

Approach to Essential Fiscal, Personnel and Retirement Records

The second phase of this survey—identification of essential state fiscal, personnel and retirement records—will be separated into two parts: fiscal records and personnel and retirement records.

The study of fiscal records will be done with the cooperation of the staffs of the State Controller and the State Treasurer. As stated before, it is thought desirable to study these records on a government-wide basis, rather than in each using agency. This will not exclude consideration of individual agency processing of financial records which affect the State's assets. However, it will most probably be necessary to limit this study to those records and activities involving the largest dollar amounts, and virtually ignore smaller transactions.

The study of personnel and retirement records will be done with the cooperation of the staffs of the State Personnel Board and the State Employees' Retirement System. Again, these are records which are more easily studied on a government-wide basis. Both this study and the one of fiscal records may develop records series which are best preserved by the using agencies, but a common pattern may more easily be found through the proposed approach.

Plans for Further Work

The third phase of the survey will be the identification of records essential to normal programs which are so important that they must be carried on during an emergency. Here, the search will be directed toward essential "normal" programs. When such a program is found, we will then identify the records (if any) which are vital to the performance of the program.

During the fourth phase of the survey we will be looking for records not essential during an emergency, but which would be highly valuable during a period of post-emergency resumption of state government services.

The third and fourth phases of the survey will include all state government agencies. In addition, work will continue with the agencies which now have administrative orders because as planning for emergency operations develops within those agencies, the records preservation planning will require re-evaluation. Four more administrative orders will be issued soon, and the records needs of the affected agencies will be reviewed as the orders are signed.

JAMES S. FULLER
Administrative Analyst

MARVIN L. BLANCHARD
Organization and Cost
Control Division

APPENDIX 13

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 580

Introduced by Messrs. Kilpatrick, Miller, Schrade, Nisbet, Beaver, and Hegland

January 21, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to add Sections 26803.5, 71271, 71272 to the Government Code, relating to preservation of superior, municipal, and justice court records.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26803.5 is added to the Government
2 Code, to read:
3 26803.5. The county clerk shall, promptly after he receives
4 for filing a judgment of the superior court or minutes of a
5 superior court, make a copy of same and forward it to the
6 Secretary of State for preservation in a safe place, so that
7 copies of such papers will be preserved in the event of destruc-
8 tion of the originals in a disaster.
9 SEC. 2. Section 71271 is added to said code, to read:
10 71271. The clerk of every municipal court shall make a
11 copy of the minutes of the court, promptly after preparation
12 of the original, and forward same to the Secretary of State
13 for preservation in a safe place, so that copies of such papers
14 will be preserved in the event of destruction of the originals in
15 a disaster.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 580 as introduced, Kilpatrick (N. R., P., & P. W.). Court records.

Adds Secs. 26803.5, 71271, and 71272, Gov. C.

Requires county clerk to forward copies of superior court judgments and minutes, received by him for filing, to Secretary of State for preservation in safe place in case originals are destroyed in disaster. Requires municipal court clerk to make a copy of court minutes and forward same to the Secretary of State for such purpose. Requires clerk of justice court to make copies of dockets and forward same to Secretary of State for such purpose.

1 SEC. 3. Section 71272 is added to said code, to read:
2 71272. The clerk of a justice court shall, promptly after
3 a docket of the court is prepared, make a copy of same and
4 forward it to the Secretary of State for preservation in a
5 safe place, so that copies of such papers will be preserved
6 in the event of destruction of the originals in a disaster.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1265

Introduced by Messrs. Kilpatrick, Masterson, Miller, Beaver, Nisbet, Schrade, and Sumner
(At the request of Department of Finance)

February 9, 1959

REFERRED TO COMMITTEE ON NATURAL RESOURCES, PLANNING, AND PUBLIC WORKS

An act to repeal Sections 1518 and 1518.1 of, and to amend Section 1518.2 of the Military and Veterans Code, and to add Sections 1517, 1518, and 1518.1 thereto, relating to preparedness for and mitigation of disasters, including the establishment of the California Disaster Office as a separate state agency, declaring the urgency thereof and providing that this act shall take effect immediately.

The people of the State of California do enact as follows:

1 SECTION 1. Sections 1518 and 1518.1 of the Military and
2 Veterans Code are repealed.
3 SEC. 2. Section 1517 is added to said code, to read:
4 1517. There is in the State Government the California
5 Disaster Office, which office is the State Civil Defense Agency.
6 The Director of the Disaster Office, who shall also be the State
7 Director of Civil Defense, shall be in charge of the Disaster
8 Office and shall have all of the rights and powers of a head
9 of a department as provided by the Government Code.
10 The Director of the Disaster Office shall be appointed by the
11 Governor with the consent of the Senate, and shall serve at
12 the pleasure of the Governor. The Director of the Disaster

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1265 as introduced (departmental) (N. R., P., & P. W.). California Disaster Office.

Amends, adds, and repeals various sections, M. & V. C.

Establishes California Disaster Office as a separate state agency, instead of being part of the staff of the Governor, and provides that its employees, including existing employees, other than the director, shall be included in the state civil service system in order to enable the State to be eligible for allocations of federal funds for administrative purposes.

To take effect immediately, urgency measure.

Office or the effective date of this section shall continue to serve until his successor is appointed and qualifies.

The Director of the Disaster Office shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 1518 is added to said code, to read:

1518. The Governor shall assign all or part of his powers and duties to the California Disaster Office, which shall consist of the director and a sufficient number of full-time assistants, regional co-ordinators, assistant co-ordinators and other personnel to adequately carry out the purposes of this chapter throughout this State, and who shall be appointed by the director subject to the State Civil Service Act and other provisions of law.

All full-time assistants, regional co-ordinators, assistant co-ordinators and other personnel employed in the Disaster Office on the effective date of this section shall continue to serve as appointees of the Director of the Disaster Office, and the provisions of Article XXIV of the Constitution and the term "state civil service" shall apply to and include such persons, who shall be subject to the State Civil Service Law.

SEC. 4. Section 1518.1 is added to said code, to read:

1518.1. The Director of the Disaster Office shall administer and supervise the execution of the State of California Civil Defense and Disaster Plan and the program for the mitigation of disaster in this State; and such plan and program shall be in effect in all political subdivisions of this State, as provided in Section 1507.5.

The director shall co-ordinate the plan and program for the mitigation of disaster in this State, such plan and program to be integrated into and co-ordinated with the civil defense plans of the Federal Government and of other states to the fullest possible extent; and he shall co-ordinate the preparation of plans and programs for the mitigation of disaster by the political subdivisions of this State in conformity with the State of California Civil Defense and Disaster Plan, such plans to be integrated into and co-ordinated with the state plan to the fullest possible extent.

SEC. 5. Section 1518.2 of said code is amended to read:

1518.2. The Governor, with the approval of the Senate, shall designate one person in the California Disaster Office to act as the Director of the Disaster Office. The Director of the Disaster Office is the State Director of Civil Defense. The Director of the Disaster Office shall receive an annual salary as provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code and he shall have all of the rights and powers of a head of a department ~~except those conferred by Section 11154 of the Government Code~~. When the Governor proclaims a state of disaster within any region or regions of the State, the director shall

act as the co-ordinator of all state disaster activities in connection with such emergency, and every state agency and officer shall co-operate with the director in rendering all possible assistance in carrying out the provisions of this chapter. In addition to the powers herein designated, the Governor may delegate any of the powers vested in him under the chapter to the Director of the Disaster Office and to the regional or area co-ordinators ~~appointed by the Governor~~ except ~~the power to make appointments, the power to fix salaries,~~ the power to make, amend, and rescind orders, rules, and regulations; and the power to proclaim a state of extreme emergency or a state of disaster.

SEC. 6. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The Congress of the United States has made provision for federal contributions toward the cost of administration of state civil defense agencies provided the civil defense functions are administered by a single state agency and the personnel thereof are employed under a merit system. It is essential that this act take effect immediately in order that this State may be qualified to receive federal funds for civil defense administration.

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APPENDIX 15

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

Assembly Joint Resolution No. 14

Introduced by Messrs. Kilpatrick, Miller, Beaver, Schrade, and Nisbet
(At request of Los Angeles Office of Civil Defense)

February 9, 1959

REFERRED TO COMMITTEE ON RULES

Assembly Joint Resolution No. 14—Relative to civil defense.

1 WHEREAS, The concept of civil defense has changed radi-
2 cally in recent years with the extraordinary developments in
3 the missile field and the even more recent spectacular advance-
4 ments of the space age programs and general technological
5 progress which have moved the United States from a com-
6 paratively isolated country protected by two great oceans and
7 two friendly countries into a most vulnerable and inviting
8 target; and
9 WHEREAS, There stalk about us, enemies of freedom and
10 independence who would like nothing better than to destroy
11 our people and lay waste our land, having no respect for geo-
12 graphical areas, landmarks, mores and traditions; and
13 WHEREAS, This potential destruction transcends the capa-
14 bilities and capacities of individual states and their political
15 subdivisions to cope with successfully; and
16 WHEREAS, The preservation and protection of our fair land,
17 its institutions and liberties is the responsibility of the entire
18 Nation; and
19 WHEREAS, The Eighty-fifth Congress, recognizing this
20 broadened concept, adopted Public Law 606, which provides
21 for civil defense responsibilities to be assumed jointly by the
22 Federal Government and the states and their political subdi-
23 visions; and
24 WHEREAS, Public Law 606 declares as a matter of policy
25 that matching funds will be provided by the Federal Govern-

LEGISLATIVE COUNSEL'S DIGEST

A. J. R. 14 as introduced, Kilpatrick (Rls.).

Memorializes Congress to enact legislation concerning appropriations for civil defense.

1 ment up to 50 percent to states and local subdivisions for
2 personnel and administrative expenses; and
3 WHEREAS, A supplemental appropriations bill to implement
4 the provisions of Public Law 606 was introduced in the
5 Eighty-fifth Congress but did not pass, due primarily to the
6 limitations of time; and
7 WHEREAS, An appropriations bill for the Office of Civil
8 and Defense Mobilization will be introduced during the
9 Eighty-sixth Congress, which, if enacted, will provide funds
10 to carry out the provisions of Public Law 606; and
11 WHEREAS, This bill will have the full support of the gover-
12 nors, mayors, government officials on all levels, and civil
13 defense citizens' advisory committees concerned with the pro-
14 tection of life and property in this Country during times of
15 national emergency or disaster; now, therefore, be it
16 *Resolved by the Assembly and Senate of the State of Cali-*
17 *fornia, jointly,* That the Members of this Legislature respect-
18 fully memorialize the Congress of the United States to adopt
19 such an appropriations measure for the benefits it will pro-
20 vide to the entire Nation; and be it further
21 *Resolved,* That the Chief Clerk of the Assembly is directed
22 to transmit copies of this resolution to the President and Vice
23 President of the United States, to the Speaker of the House
24 of Representatives, to Congressman Clarence Cannon of Mis-
25 souri, Chairman of the House Appropriations Committee, to
26 Senator Carl Hayden of Arizona, Chairman of the Senate
27 Appropriations Committee, and to each Senator and Repre-
28 sentative from California in the Congress of the United States.

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APPENDIX 16

AMENDED IN ASSEMBLY MARCH 4, 1959

AMENDED IN ASSEMBLY FEBRUARY 19, 1959

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

Assembly Concurrent Resolution No. 66

Introduced by Mr. Kilpatrick

February 12, 1959

REFERRED TO COMMITTEE ON RULES

Assembly Concurrent Resolution No. 66—Relative to criminal procedure in time of disaster.

WHEREAS, California's long coastline exposes it to attack by missiles launched from submarines, and a few well-placed hydrogen bombs carried by intercontinental ballistic missiles could create havoc and utter confusion; and

WHEREAS, Split-second disaster could arise in California due to these ever-increasing destructive forces created by man; and

WHEREAS, To provide a system of criminal procedure in the courts during periods of disaster is an immediate need that should be provided for and resolved by the Legislature of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Judicial Council is requested to survey the area of legislation which is necessary to provide for a system of criminal procedure in the courts of California during periods of disaster such as would follow an enemy attack; that the Judicial Council is requested to seek the co-operation and recommendations of the state and local bar associations; and that the Judicial Council's report and recommendations as to basic legislation necessary in this field be submitted to the Legislature not later than ~~December 15, 1959,~~ *February 1, 1960* so that legislative action may be taken ~~at this session~~ *as early as possible thereafter* ; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a suitably prepared copy of this resolution to the Chief Justice of the California Supreme Court.

APPENDIX 17

OFFICE MEMORANDUM—UNITED STATES GOVERNMENT

Date: August 20, 1958

To: Director, operations
OCDM, Region 7

From: Operations Planning Officer (S&L)
OCDM, Region 7

Subject: TRIP REPORT—Possible Relocation Site at Sonora
(Aug. 13-15, 1958)

Sonora

a. *Agencies or persons contacted:*

Mr. Ellsworth, General Manager of the United States Lime Products Company, was contacted initially to obtain admission to the Sonora limestone quarries. Mr. Ellsworth alerted Mr. McCandlish, Quarry Manager, and Mr. Wenn, Assistant Quarry Manager. Mr. McCandlish and Mr. Wenn were contacted in person the morning of August 14 at the Sonora mine headquarters.

b. Purpose of Contact:

The purpose of this contact was to make a thorough ground reconnaissance of underground limestone quarries owned by the U. S. Lime Products Company to determine the feasibility of converting them to a suitable, emergency relocation site for Region 7, OCDM.

c. Concise restatement of the subject handled·

U. S. Lime products quarries are located almost exactly one mile south of downtown Sonora. This places the quarries within easy walking distance of most any part of the town. A paved county road passes within approximately 300 yards of the quarry headquarters

The two portions of the quarry most suitable for our purpose are readily accessible by vehicle and rail. Company roads from the paved county road to the portals of these individual abandoned mines are unimproved However, they have easy grades and crushed limestone surfaces, suitable to all-weather driving and capable of supporting any wheeled vehicle. A railroad terminates on company property

The No 2 South Quarry (underground) has a number of advantages from protective, local accessibility, and space points of view. This quarry has been blasted from solid limestone. It has an average overhead thickness of some 70 feet of solid limestone Internally, the roof is supported by four large pillars left during the mining process. Mine engineers claim these pillars were left for psychological reasons only They stated that the stability of the entire formation is such that internal support is superfluous.

Local access to the No. 2 South Quarry is gained over a 250-yard company road from the county road. The company road descends on a gentle grade for its entire length and, for our purposes, ends in a horseshoe-shaped open quarry approximately 50 feet deep. The mine entrance, presently blocked to foil trespassers, is level with the bottom of the open quarry, thus, vehicles may be driven into the mine as though it were an extension of the access road. Mine engineers claim the debris over the entrance could be cleared in two days with a power shovel (see figures 1, 2 and 3). A parallel entrance, approximately 50 feet from the present entrance could be quickly opened through approximately 20 feet of thickness. The open horseshoe-shaped quarry forms a natural parking area of approximately 6,000 square feet.

SUBCOMMITTEE NOTE: Company officials are opening the portal and expect completion by April 10, 1959.

Usable floor space, which they claim is smooth and level, amounts to 27,500 square feet. This is the equivalent of an open room 165.8 feet square—enough to accommodate 690 people, assuming 40 square feet is allowed for each person The roof of this quarry drips slightly during the rainy season There is no moisture present at other times. Company engineers claim this dripping could be corrected at small expense. This is not likely to introduce fallout into the mine should it be present on the surface. The reason for this is the high filtering qualities of the limestone overhead.

The other underground quarry which might be converted for our purpose is known as the North Quarry. It is approximately the same size and has almost the same characteristics as the No. 2 South Quarry. Accessibility is its drawback. Originally it had a level, horizontal entrance just as the other one has now The entrance, though level, was gained through a rock defile some 60 to 75 feet long. The company filled the defile to a depth of about 30 feet for its entire length and breached a 10-foot hole from the top at the dead end of the defile.

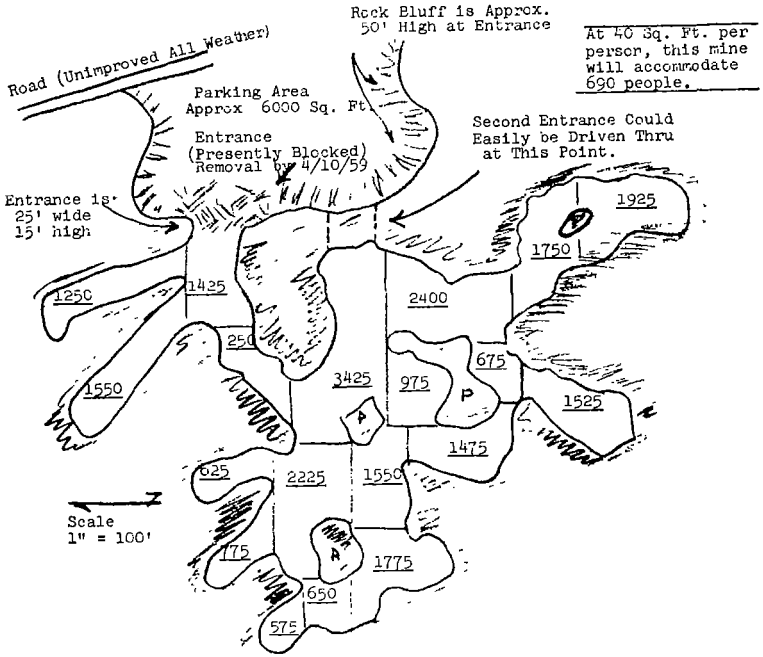
Summary of Conclusions and Results Achieved

The underground quarry is suitable in many respects. It has three disadvantages, namely:

1. Distance and accessibility from Santa Rosa and San Francisco.
2. Some expense, possibly $25,000 necessary to prepare for occupancy.
3. Sonora is not a major communications center.

SUBCOMMITTEE NOTE: These disadvantages not necessarily valid for State function.

POSSIBLE STATE EMERGENCY HEADQUARTERS
Sonora, California



Total Available Floor Space is 27,500 Square Feet

27,500 square feet of floor space is equivalent to one room 165 8′ square.
United States Lime Products Corporation No. 2 South Quarry (Underground)
Company contact: Mr. Ellsworth (General Manager) Los Angeles Headquarters.
Contact at Quarry: Mr. McCandlish (Manager) or Mr. Wenn (Assistant Manager) Sonora, California.

NOTES. 1 Average overhead thickness is approximately 70 feet of rock
2 "P" indicates pillar
3 Underlined figures indicate available floor space in square feet
4 Road, parking area and floor level of mine are same elevation.
5 Roof of mine drips slightly during rainy season. No moisture at other times Dripping could be corrected at small expense
6 Lowest clearance is approximately 8 feet; highest is approximately 30 feet
7. Temperature 60 to 65 degrees year around

FACTS IN BRIEF ON TUOLUMNE COUNTY

130 Miles Due East of San Francisco Bay Area in Heart of the Mother Lode

Population

Total county:

1950	12,584
1958	15,000

Districts:

Sonora	Approx. 4,500
Jamestown	Approx. 2,000
Tuolumne	Approx. 3,000
Groveland	Approx. 1,000
Columbia	Approx. 1,750
Twain Harte	Approx. 2,750

Climate

Average:

Winter	32 to 56 degrees
Spring	59 to 63 degrees
Summer	55 to 90 degrees
Fall	42 to 76 degrees

Rainfall—Normal: 30 inches

Snow—Few snow storms below 2,000 feet elevation

Elevation

350 feet at west boundary of county to over 13,000 feet in primitive area

Sonora	1,825 feet
Jamestown	1,406 feet
Columbia	2,143 feet
Tuolumne	2,577 feet
Groveland	2,846 feet
Twain Harte	3,650 feet
Pinecrest	5,300 feet
Sonora Pass	9,624 feet

Area

1,401,600 acres or 2,190 square miles. 435,000 acres in Yosemite National Park, 555,000 acres in Stanislaus National Forest. 411,600 acres privately owned.

Assessed Valuation

County: 1957-58
Base: $32,000,000
Rate: Approximately $5 00

Sonora: 1957-58
Base: $4,000,000
Rate: $1 00

Schools

District elementary schools in all communities. 1958 enrollment 2250

Two secondary schools: Enrollment 796: Sonora Union High School at Sonora. Summerville Union High School at Tuolumne.

Bus service provided by county to all schools.

Churches

All denominations represented: Catholic, Episcopal, Methodist, Presbyterian, Christian Science, Church of God, Seven Day Adventists. Lutheran, Baptist, Latter Day Saints.

Lodges and Organizations

132: Service — fraternal — veteran groups, Grange and Farm Bureau.

Transportation

County served by Greyhound, both passenger and fast freight. Sierra Railway — freight only — connects with main lines at Oakdale. Trucking freight lines: Valley Motor Express; California Motor Express.

County airport—two miles north of Sonora near Columbia State Park. 3,200 feet surfaced runway—lights —hangars—service. Charter flights for freight and passengers.

Industries

Lumbering: 10 mills in county—employing 2,000 skilled men in season. Mining industry — employs about 100 men year-around.

Commercial establishments, government transportation, utilities and service employ over 1,850.

Agriculture

420 farms—income: $3,577,500. Principal crops—cattle, turkeys, fruit (apples and pears), hay crops.

Soil: loam, limestone, slate, granite, lava ash and clay. Suited to irrigated pastures, hay crops and dry grazing. Ideal orchard land located above 2,000 feet.

Publications

Two daily newspapers
Union Democrat—Sonora
Sonora Daily—Sonora

One weekly paper
Tuolumne Prospector—Tuolumne

Banks

Bank of America NTSA—Sonora
Mother Lode Bank—Sonora

Utilities

Water and electricity furnished by Pacific Gas and Electric Co. Telephone service supplied by Pacific Telephone & Telegraph Co. Western Union office in Sonora. Heating fuels: electricity, oil and L.P. gas —furnished by local dealers.

FACTS IN BRIEF ON TUOLUMNE COUNTY—Continued

Fire Protection

All communities have volunteer fire departments Sonora—men on duty 24 hours a day Rural areas served by California State Fire Patrol and Stanislaus Forest Fire Suppression Crews. Fire trucks and men stationed at strategic locations throughout county.

Housing

Majority of population own homes—rentals, houses and apts available Property values firm. Construction costs on par with other areas. Land values steady

Employment Possibilities

Little labor turnover. Employment trend steady. Local labor supply sufficient to handle average needs Wage scale Union scale for all organized industries.

Medical Services

Two private hospitals—40 beds each—fully accredited Ten physicians and surgeons in county Eight dentists and oral surgeons in county. County hospital. County home Two rest homes. Three chiropractors in Sonora One chiropodist. Two optometrists

Recreation

Summer sports: Fishing, hiking, boating. Excellent free camp sites in Stanislaus National Forest Over 700 miles of fishable streams and rivers and several hundred lakes in Primitive Area. Ten reservoirs providing year-round fishing, boating, water skiing. Three public swimming pools—Sonora, Tuolumne and Columbia State Park. Two golf courses

Fall sports: Hunting — deer, dove, quail, bear, some ducks.

Winter sports: Ideal snow sports area — skiing (rope tows, T-bar tows, double chair lift, Pomo-lift), tobogganing. Roads kept open all winter to Pinecrest, Dodge Ridge.

Moccasin Creek Fish Hatchery, one of largest in State, provides weekly plantings of catchable sized trout in all accessible streams and lakes of Tuolumne, Alpine, Calaveras, and Mariposa Counties

APPENDIX 18

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF CIVIL AND DEFENSE MOBILIZATION
WASHINGTON 25, D. C., March 2, 1959

HONORABLE VERNON KILPATRICK
Member of the Legislature
Lynwood, California

DEAR MR. KILPATRICK: On February 23, 1959, the American Bar Association adopted an important resolution (enclosed) recommending that State Legislatures carefully consider the suggested legislation for continuity of civilian government developed by the Council of State Governments.

I thought that you would be particularly interested in this resolution since legislation of this type recommended by the Council is now being considered in your State.

In my opinion, it is essential that we strengthen our State and local laws by providing for continuity of government. The adoption of the suggested legislation will assure the survival of our constitutional form of government and reduce the necessity of martial law in the event of an enemy attack.

Sincerely,

LEO A. HOEGH

American Bar Association

REPORT OF THE SPECIAL COMMITTEE ON ATOMIC ATTACK

Recommendations

Resolved, That the association recommends to the State Legislatures, meeting in 1959, the careful consideration and adoption of legislation to assure the continuity of civilian government—judicial, legislative and executive—and the continuation of civil law and order in the event of atomic attack, as an important measure in preparing for survival and revival and in avoiding martial law in case of atomic attack, and as a deterrent to attack.

Resolved further, That the association urges the state and local bar associations represented in the House of Delegates to assist their legislatures in the preparation and consideration of such legislation.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1957-1959

VOLUME 13 NUMBER 27

POWER FOR WATER

REPORT OF THE SUBCOMMITTEE ON WATER PROJECT POWER

A SUBCOMMITTEE OF THE
ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 234, 1957

MEMBERS OF SUBCOMMITTEE

JACK A. BEAVER, *Chairman*

JACK SCHRADE
BRUCE SUMNER
PAULINE L. DAVIS
WILLIAM BIDDICK, JR.
FRANCIS LINDSAY
ALLEN MILLER

THOMAS M. REES, *Vice Chairman, Full Committee*

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

HON RALPH M. BROWN
Speaker

HON CARLOS BEE
Speaker pro Tempore

HON. WILLIAM A. MUNNELL
Majority Floor Leader

HON JOSEPH C. SHELL
Minority Floor Leader

ARTHUR A OHNIMUS
Chief Clerk of the Assembly

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LETTER OF TRANSMITTAL

March 12, 1959

HONORABLE THOMAS M. REES, *Vice Chairman*
Assembly Interim Committee on Conservation,
Planning and Public Works
California State Legislature, Sacramento, California

DEAR ASSEMBLYMAN REES: Pursuant to House Resolution No. 234, passed by the Assembly on June 9, 1957, there is submitted herewith a final report of your Subcommittee on Water Project Power.

This report covers the period of the subcommittee's activities since the 1958 Session of the Legislature and presents certain findings and conclusions which your subcommittee has made together with the pertinent information which your committee believes supports these conclusions

The subcommittee wishes to express its appreciation to the many organizations and individuals who have co-operated with and assisted it. The subcommittee also wishes to thank the Legislative Analyst's Office for the staff assistance provided throughout the course of the study and in the preparation of the report.

Respectfully submitted,

JACK A. BEAVER, *Chairman*
WILLIAM BIDDICK, JR.
ALLEN MILLER

JACK SCHRADE
PAULINE L. DAVIS

WATER PROJECT POWER

FINAL REPORT OF THE SUBCOMMITTEE ON WATER PROJECT POWER OF THE ASSEMBLY INTERIM COMMITTEE ON CONSERVATION, PLANNING, AND PUBLIC WORKS

House Resolution No. 234, 1957

MEMBERS OF SUBCOMMITTEE

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WILLIAM BIDDICK, JR.
FRANCIS LINDSAY
ALLEN MILLER

INTRODUCTION

The Subcommittee of the Assembly Interim Committee on Conservation, Planning, and Public Works was authorized and directed by Assembly House Resolution No. 234, Statutes of 1957, to study the energy requirements of the Feather River Project, saline water conversion programs of state agencies relating to water project power and the peaceful use of nuclear energy in relation to California's water problems.

Initial impetus was given to the subcommittee's work by a predecessor committee, the Subcommittee on Water Project Uses for Atomic Power of the Assembly Interim Committee on Conservation, Planning, and Public Works, created by House Resolution No. 88, 1957. That subcommittee's report (Assembly Interim Committee Reports, Vol. 13, No. 16, 1955-57) pointed up the problems posed by the large energy requirements of the State's proposals for the transportation of water over long distances and high mountain ranges. It sketched the dramatic potential of nuclear energy as a solution to those problems and indicated the relationship between energy requirements for transportation of water and the energy requirements for large-scale conversion of saline water as a possible alternative program for supplementing the State's water needs.

The subcommittee, in a partial report to the 1958 Session of the Legislature, concluded that:

1. Significant developments in the field of nuclear energy continued to support the contention that possible availability of large blocks of low-cost energy from this source should be included as an important factor in the planning and design of the Feather River Project.
2. Saline water conversion as a possible solution to some of California's water problems was showing increased promise, and the study and evaluation of this potential should be hastened.
3. There was not, at the time, any process for the conversion of saline water sufficiently well developed to provide the quantities of fresh water contemplated to be transported from areas of surplus to areas of deficiency in California

4. Likewise, there was no conversion process which could supply water in any quantities at unit costs as low as those contemplated by the Feather River Project
5. The problem, therefore, is to develop a process or processes to the point where large quantities of fresh water can be converted from saline water at prices which will be as low as, or lower than, transporting natural water supplies to areas of need.
6. If possible, this development should be accomplished in time to permit a choice to be made between transportation and saline water conversion as sources of the water needs of the various areas of the State
7. The State must play the guiding role in fostering and directing this work. This should include assembling and evaluating information and carrying out exploratory programs on a sufficiently large scale to insure adequate consideration of the problems and evaluation of possible solutions.
8. There should be a full realization that unqualified success in either the nuclear energy or the saline water conversion field is not assured and that a great deal of work remains to be done before positive answers can be given either way.
9. Present proposals for water conservation and transportation must be pursued diligently if California is to meet its pressing water requirements The consideration of nuclear energy and saline water conversion recommended by the subcommittee might modify those proposals but such modification should only be made on the basis of known facts and not as the result of theoretical speculation.

The subcommittee at the time recommended that.

1 The Department of Water Resources give added impetus to its program of evaluation and study of nuclear energy in relation to the pump lift requirements of the Feather River Project.
2. The Department of Water Resources give full consideration to the implications for California of the saline water conversion legislation before the Congress and be prepared to recommend an appropriate course of action in this regard to the 1959 Session of the Legislature.
3. The University of California, with due regard for its educational and basic research responsibilities, attempt to concentrate its efforts in nuclear and saline water conversion research into channels most likely to be of practical use to the State as a whole
4. The Legislature support reasonable augmentations to the programs of the Department of Water Resources and the university in these fields.
5 The committee should continue to actively monitor the existing state programs in these fields, and continue its study of the best procedures to be followed by the State in its approach to these problems.

This report updates the development of the various programs in the fields of nuclear energy and saline water conversion, as these relate to the California water problem, since the committee's first report in

1958. In addition, the section under the heading of "Future Fossil Fuel Availability" provides background for consideration of the overall energy relationships which are an inherent part of the California water problem.

The committee held two special hearings The first of these was held jointly with the Senate Interim Committee on Salt Water Conversion at the Richmond Engineering Field Station of the University of California This meeting provided the legislators in attendance an opportunity to review first hand the research work on saline water conversion under way at Richmond and to obtain from the participating scientists the facts and opinions concerning the work to be done and the potential for research progress.

The second meeting was held in Los Angeles in December last year. At this meeting the subcommittee had the opportunity to learn the extent of the interest of California communities in co-operating with the State and the Federal Government programs for saline water conversion.

The committee concludes:

1 Progress has been made on a wide front in saline water conversion and peacetime nuclear energy potentials
2. Excellent co-operation and full exchange of information now exists among interested California state agencies and between state agencies and the Federal Government.
3 Local California communities are eager to play a part in any programs designed to further the work of seeking solutions to saline water conversion problems
4 While worldwide research work on saline water conversion has increased and new technological improvements have been discovered during the year, the present projected cost of converted saline water remains higher than the potential cost of most natural supplies.
5. The federal program for the construction of demonstration plants is a necessary forward step in the study of the problems of large-scale saline water conversion, but it should not be expected to immediately result in the production of low-cost water.
6. There is an area of water need where converted saline water can provide an immediate solution, i e., where its cost is relatively lower than alternative sources of supply
7. New concepts for the peaceful application of nuclear energy have been formulated during the last year, particularly in relation to controlled underground explosions of nuclear devices which could conceivably provide solutions to some of the energy requirements of California's water problems
8. In the absence of the development of new energy sources, the unique application of newer sources of energy, or technological improvements on existing energy sources and processes, California may be faced with an energy shortage (or, conversely, a high-cost energy situation) within the next 30 years.
9. This potential energy crisis must be considered in relation to California water problems, as it lies at the heart of the energy requirements of presently proposed conservation-transportation

solutions which are tied to useful life periods *extending* into what may be a high cost or inadequate supply energy period.

The subcommittee recommends:

1. Continued legislative support for the programs of the Department of Water Resources and the University of California in the fields of saline water conversion and nuclear energy sources for water projects.
2. Immediate financial participation by the State in a joint federal-state program for the construction and operation of a demonstration plant for the conversion of sea water on the California coast.
3. Intensified effort on the part of the Department of Water Resources and the University of California to provide technological solutions to the problems posed by the potential energy crisis.
4. Continuation of a legislative committee as a source of information and of co-ordination of the various aspects of the problems.

DEPARTMENT OF WATER RESOURCES PROGRAM

The program of the Department of Water Resources in the fields of nuclear energy and saline water conversion as presented to the Legislature at the 1958 Session was described as being intended to be "* * * first, directed toward the collection and evaluation of design, operation and maintenance data for existing and planned saline water conversion units in the United States and abroad and, second, a close co-operation will be maintained with the research work of the University of California at Berkeley and Los Angeles in the fields of saline water conversion processes and low temperature nuclear reactor development. The nuclear reactor development will be directed both to pumping water and to saline water conversion." It was contemplated that supplementary studies by qualified experts would be contracted for. Investigation was to be made of conditions at sites where experimental or development work on saline water conversion might most appropriately be conducted.

Subsequent achievements, particularly the excellent co-operation and co-ordination of effort among agencies concerned, have somewhat altered the actual approach and emphasis of the department's activity but have not changed the broad outline nor limited the objectives. Details of the department's activity are discussed later in this report.

The 1958 Legislature made a total of $103,412 available for the support of the Applied Nuclear Engineering Unit of the Department of Water Resources for the current year Some difficulty and delay in augmenting the staff of the unit has been encountered, resulting from the problems of securing Personnel Board approval of position authorizations and in recruiting qualified personnel. The department is requesting $70,441 for support of the unit in Fiscal Year 1959-60. The decrease from the prior year appropriations results from the anticipated completion of the contract with the Fluor Corporation for design engineering of a conversion plant coupled with a nuclear reactor during the current fiscal year.

The department, through the Applied Nuclear Engineering Unit, has established and maintained close liaison and co-operation with the

Mechanical Engineering School of the College of Engineering of the university, wherein the saline water conversion program is concentrated; also with the Office of Saline Water of the United States Department of the Interior and with other units of the department itself which are concerned primarily with the energy requirements of water projects. Substantial progress has been made in securing information from equipment manufacturers and engineers as to the current technology of the field.

A contract for the design engineering of conversion equipment which can be moved from place to place along the seacoast is expected to be let soon. This equipment when built will be used co-operatively by the department and the university for on-site experimentation with the flash evaporation process, utilizing the temperature differentials of sea water. The particular locations where these experiments will likely be conducted include university campuses at Berkeley, Santa Barbara and La Jolla.

The department has established a continuing consulting contract with Stanford Research Institute and utilizes the services of that organization for advanced technical advice on nuclear energy problems.

Early in 1958, the department supported legislation before the Congress to enlarge the scope of the federal saline water conversion program. In April of 1958 the department entered into the first state-federal co-operative agreement with the Office of Saline Water of the Department of the Interior. This pioneering agreement provides for mutual assistance and the full exchange of information. In July a supplemental agreement was signed whereby the department joined with the Office of Saline Water in financing a contract with the Fluor Corporation of Whittier, California, for an engineering design study of a multistage flash distillation sea water conversion plant powered by a nuclear reactor The department is contributing $40,000 toward the total cost of $97,985. Since that time, the department has worked with the Office of Saline Water and the Fluor Corporation in specifying design characteristics and conditions for the study which has been modified so as to possibly incorporate it into the Federal Government's current demonstration plant program.

In recent months, the Nuclear Energy Unit of the department has been assisting the Office of Saline Water in its federal demonstration plant program by specifying site conditions which might be found in California.

THE UNIVERSITY'S PROGRAM

Activities relating to saline water conversion are carried on by the University of California on both the Berkeley and the Los Angeles campuses. Peaceful applications of nuclear energy are a principal concern of the university's Radiation Laboratory at Livermore. These activities are co-ordinated with the program of the Department of Water Resources by close staff liaison as originally recommended and encouraged by the committee.

The basic characteristics of saline water which differentiates it from fresh water is that it contains minute particles of various minerals in varying amounts in suspension. Sea water generally has about 35,000

parts of such minerals per million parts of water The problem of saline water conversion has always been to accomplish the separation of the water and the minerals. Many methods for doing so have been discovered in the past and, generally, research has been directed toward the discovery and exploration of new methods, or the refinement of known methods, in the hope that a simple, inexpensive and efficient process would be discovered No process presently known comes close to the theoretical minimum energy requirement necessary to accomplish the separation of water and minerals and, consequently, much attention has been given to reducing the amounts of energy required by different processes in order to reduce the cost of conversion through reduced fuel-energy requirements

The university has developed an active saline water conversion research program with a long history of scientific investigations. Extensive research work has been done on these problems in relation to solar distillation, reversed osmosis, ion exchange, and flash distillation processes at the Richmond Field Station of the Berkeley Campus, while the Los Angeles Campus has concentrated on reversed osmosis, a skimming process and thermodynamic analysis. In addition, the university has attempted to stay abreast of research developments by liaison with other researchers and with the Office of Saline Water

The original budget of $86,500 submitted by the university for the current year would have maintained the pre-existing level of activity in the various areas of research mentioned above but did not contemplate expanding the scope or nature of the research The augmentation of this budget in the amount of $335,000, sponsored by the committee in the 1958 Session of the Legislature, permitted an acceleration of the work already in progress and has also resulted in new research programs being undertaken New processes under investigation are freezing, the effect of magnetism on moving ions and multiple effect centrifugal evaporation. Researchers are concerned with the problems of separation of ice crystals from brine and the scale problems already encountered in the work done on other processes Another investigation involves the design, building and operation of a centrifugal evaporator using the multieffect principle to test the operating variables of this process This project results from a proposal made by Professor L A. Bromley of the Department of Chemical Engineering at Berkeley

While basic research into the physical characteristics of the phenomenon of the separation of minerals from water is not being neglected, the major emphasis of the university program is now being directed toward the reduction of conversion costs. The committee recognizes that the cost of converting saline water to fresh water is the critical factor by which success will be judged

Heretofore attempts have been made to keep abreast of developments in the saline water conversion field abroad by correspondence, study of reports, symposiums and occasional visits of qualified scientists and technicians In large part the information gained through these media was valuable but, generally, incomplete An example of this is the discussion of an electrodialysis process conversion installation in connection with brackish mine waste water in South Africa which this committee had in its progress report to the 1958 Budget Session of the

Legislature. The meager information available on this installation raised more questions than it answered. Another example is the symposium on worldwide developments in saline water conversion sponsored by the Office of Saline Water in Washington, D. C., in the late fall of 1957.

Consequently, a qualified expert from the university was sent to visit the most promising installations in foreign countries, to study their operation on the spot and secure the most complete, accurate and up-to-date information possible to complement the university's program. Professor Everett D. Howe, who has been in direct charge of the university's saline water program since its inception and who is recognized as a worldwide authority on the subject, has just returned from five months' travel to Europe, Africa and the Middle East during which time he reviewed the research and development programs in 20 foreign countries. He also visited many commercial installations of saline water conversion equipment now used by industrial operators abroad.

While Professor Howe's report on his trip, which is being published by the university, will be available soon and will detail his observations and conclusions, he has advised the committee of several significant advancements as the result of his study. Perhaps the best of these is the advance in design and construction of the membranes used in the various applications of the electrodialysis processes. The trend is toward thinner, lighter, but structurally stronger membranes which result in less electrical resistance and, consequently, greater fresh water production in ratio to energy requirements.

He also advises that a number of manufacturers of distillation equipment believe that multiflash evaporation is an advance over the multi-effect flash evaporation equipment now in use. This design would increase the temperature of the feed water and permit an increase of the output through more successive flash evaporation stages than are presently possible where initial temperature differential alone is currently relied upon.

Professor Howe also reports that some manufacturers feel that the design capacity of distillation equipment can be increased from the present 625,000 gallons per day pet set of heat exchangers to capacities of 2,000,000 gallons per day per set of equipment.

As a result of Professor Howe's trip, it may be assumed that the work currently being done in California can have the benefit of the world's most advanced thinking on the subject.

THE FEDERAL PROGRAM

The most significant development in the federal program since the committee's last report, was the passage of Senate Joint Resolution No. 135 by the Congress with the President signing the bill into law on September 2, 1958. This legislation provides for the construction of five demonstration saline water conversion plants. Two of these, for the conversion of brackish waters, are to be located in the Great Plains area of continental United States. The other three are for the direct conversion of sea water and are to be located as follows: one on the East

Coast, one on the Gulf Coast, and one on the West Coast. The Secretary of the Interior is directed to select the first process to be demonstrated within six months of the effective date of the law and the processes for later plants at not more than three-month intervals. The law authorized a 10-million-dollar appropriation for the construction phases of the program Of the three plants to be built for sea water conversion, two are to have a capacity of not less than one million gallons per day The program has a duration of seven years from the date of approval of the legislation at which time the plants are to be disposed of by sale to the highest bidder or as otherwise directed by Congress

As a result of this action by the Federal Government, it appears that a sea water conversion plant of not less than one million gallons per day capacity should be built on the California coast within the next few years

A number of problems, however, are raised by the federal program. The Office of Saline Water maintains that the technology of saline water conversion has not been sufficiently developed to permit the selection of processes for demonstration plant construction which have real promise of economical results, regardless of the scale of production. In other words, the interpretation of laboratory data on the cost of converted water for the most promising processes results in cost estimates for in excess of the cost of natural supplies. Thus, it would be a mistake to anticipate that the demonstration plant program will result in the production of water at costs equal to, or below, the cost of the water now available in the areas where plants will be located. On the other hand, it appears reasonable that water-short areas could absorb a supplemental increment of water supply at considerably higher relative cost to alleviate shortages Not the least important of the objectives of the demonstration program is to test the validity of theory against actual operating hardware.

The question has been raised as to the adequacy of the 10-million-dollar authorization to construct five demonstration plants at widely scattered locations, two of which must be at least one-million-gallon-per-day capacity. There is also question as to the time limitations imposed on the Department of the Interior for the selection of processes and construction and operation of the plants. The cost of the program, of necessity, can only be a rough estimate until engineering design and specification work is completed on the proposed works. If presently authorized funds are inadequate, it seems probable that the Congress will provide augmentations The law provides for financial or other assistance to be accepted from any state or public entity. In this connection, it should be noted that the California Legislature has before it at the present time, an item in the Governor's Budget to appropriate $1,600,000 to pay up to one-half the cost of constructing a demonstration plant in California under this program. The State has also agreed to contribute $40,000 of a $98,000 contract for the engineering design and specification of a multiple effect flash evaporation plant to be coupled with a nucleear reactor as an energy source. This work will provide relatively reliable construction cost data on a plant of one million gallons per day and furnish economic guidelines for 10 million to

20 million gallons per day plant capacities. The design work on the smaller of these plants has been completed and made available to the Office of Saline Water under the contract with the Office of Saline Water, the State and Fluor Corporation.

The time limitations contained in Senate Joint Resolution No. 135 (85th Congress) appear to reflect intense congressional interest in securing positive action in this field as soon as possible. Among the first actions taken by the Office of Saline Water after the approval of Senate Joint Resolution No 135, was to ask the California State Department of Water Resources to assist in prescribing the site specifications for the demonstration plant to be located on the West Coast. Among the criteria to be considered are:

A. Water Needs.
   1. Use to which water is to be put.
   2. Quantities of water available.
   3 Quantities of water needed in the foreseeable future.
   4 Time when water is needed.

B. Site Conditions
   1. Area available.
   2 Cost of land
   3. Distance from the ocean.
   4. Elevation above sea level.
   5 Topographic-bearing strength of soil.
   6. Air temperature.
   7. Wind velocities and direction.

C. Oceanographic Conditions.
   1 Depths at various distances from shore.
   2 Water temperatures.
   3 Tide and wave conditions.
   4. Turbulence.
   5. Chemical analysis.

D Construction and Operation Conditions.
   1. Roads.
   2. Railroads
   3. Utilities: electricity, gas, water, sewer, communication.
   4 Housing, including municipal facilities, storage, shops, etc.

California communities were quick to recognize the importance of this demonstration plant program to themselves and a number of them actively supported the passage of Senate Joint Resolution No. 135. A number of these appeared at the hearing held by this subcommittee in Los Angeles on December 4, 1948, to express their interest in securing the location of the proposed West Coast demonstration plant in their respective areas Additionally, however, they expressed a willingness to work with the federal and state governments to make the program as successful as possible both as to the technical aspects and the local water economics concerned.

Among the communities and organizations which have expressed interest in the federal and state programs are.

The County Counsel's Office of Los Angeles County.
The Department of Water and Power of the City of Los Angeles.
The Metropolitan Water District.
The City of San Diego.
The West Coast Basin District of Los Angeles County.
The City of Ventura.
The City of Oxnard.
The Malibu coastal area
The City of Avalon, Catalina Island.

NUCLEAR DEVELOPMENTS

Several articles have appeared in the press recently indicating the rich potential of underground nuclear explosions This potential was recognized as the result of a controlled underground nuclear explosion in Nevada in September, 1957 Although the explosion was relatively small (only the equivalent of 1,700 tons of TNT), about 700,000 tons of rock were pulverized; the heat of the explosion was trapped in the rock so that temperatures of 194 degrees Fahrenheit were encountered as late as three months after the explosion and, most significantly, the radioactivity resulting from the explosion was totally confined to the lava-like residue of the materials most immediately adjacent to the explosion.

The device was placed in a six by seven-foot chamber at the end of a 2,000-foot tunnel which curved back upon itself so that the explosion occurred 900 feet underground vertically and 800 feet horizontally. The blast collapsed the spiral section of the tunnel and the intense heat vaporized and melted the rock at the center of the explosion. It pushed the melted rock out into a spherical bubble approximately 110 feet in diameter and crushed and pulverized tremendous quantities of rock.

The Atomic Energy Commission has created Project "Plowshare" at the University of California's Livermore Radiation Laboratory to study and program further testing of underground explosions. In addition, the possibilities for using underground explosions have fired the imaginations of industrialists, who are now eager to co-operate with the Atomic Energy Commission in the necessary research and development which will be required before economic applications, if any, can be determined.

Scientists are now speculating about the possibilities of using underground explosions for the following·

Storing heat underground to be tapped gradually for the production of power
Digging of harbors and canals or reservoirs
Removing relatively light overburden from extensive ore deposits
Forcing oil from shale and from "depleted" fields.
Affecting the flow of underground water supplies

If, as the scientists suspect, energy costs can be sharply reduced, the promise for an increase in the available wealth of the world is almost beyond calculation For example, it is estimated that the known shale oil deposits in this country equal 700 billion barrels. Some of this

can be made available by mining the shale and extracting the oil, however, this is costly and much of the oil unavailable at any price. If this vast reserve could be made available through new processes at economical prices, it could be sufficient to provide current needs for several hundred years.

Whether nuclear explosions will, in fact, revolutionize our concepts of resource exploitation remains to be seen and scientists are quick to point out that at present there is only one underground explosion and much speculation The techniques of applying the effects of massive underground explosions are still to be worked out. For example, it has been pointed out that while the Nevada test was impressive, it was still small in comparison to the area of materials which must be worked in ore extraction or shale oil recovery The resulting temperatures were momentarily excessive and would have burned all the oil in the rock immediately affected while the residual temperatures were insufficient to cause an oil flow and relatively limited in duration It can only be hoped that these and similar difficulties, which will undoubtedly be encountered, can be overcome.

The exact status of a testing program, such as Project Plowshare, is not clear in the light of possible banning of nuclear explosions of all kinds However, with the potential for enriching the lives of people all over the world through what Dr. Edward Teller of the Livermore Radiation Laboratory calls "geographical engineering" it would appear that progress must be made as rapidly as possible

The Joint Committee on Atomic Energy announced on February 5, 1959, that it would hold public hearings on the "Development, Growth and State of the Atomic Energy Industry" on February 17 to 19 and 24 to 26, 1959 The announcement indicated that committee interest would focus principally on the development of a long-range power program and included the following items on its agenda:

1. The program for nonelectric power applications for nuclear reactors such as "process steam" and heating.
2. The declassification and dissemination of information
3. The Atomic Energy Commission support services to the reactor industry, such as feed material and chemical reprocessing of used fuel
4. The Atomic Energy Commission's contract policy in the reactor development field
5. Isotope development
6. Maritime propulsion program
7. Organizational and administrative problems and bottlenecks in the Atomic Energy Commission's reactor and industrial development field

Progress in a number of these areas is vital to California's water programs and the interest of the Congress is a favorable sign.

The Department of Water Resources has been giving increasing attention to the problems of the Tehachapi pump lifts for the Feather River Project These pumps will be among the largest in the world and will require enormous amounts of reliable low-cost energy The department has recently reported that it is considering designs for direct

steam-driven pumps to rely on either oil-fired boilers or nuclear reactors depending on the relative economy and feasibility of the two energy sources at the time installations are to be made. The department further points out that the heat sources for such pumps would be interchangeable, thus permitting the substitution of reactors for boilers at any time the former were deemed more desirable. It also reports that nuclear energy developments are such as to indicate that this source of energy for large pump lifts appears very favorable.

Considerable work has been done in the past year on the relative value of low-temperature reactors as an energy source for process heat, such as required for saline water conversion. To date, the results have not been encouraging since it appears that costs of nuclear reactors producing low-temperature heat are not significantly more economical than for higher temperature reactors.

SALINE WATER CONVERSION DEVELOPMENTS

During the spring of 1958 the City of Coalinga made the first practical application of saline water conversion techniques to a community water supply in the United States. The city is located at the western edge of the San Joaquin Valley, southwest of Fresno. Its only natural water supply has been water pumped from wells This water, however, is saline or brackish, having a solid content of approximately 1,900 parts per million and is unfit for human consumption according to public health standards which set a maximum of 500 parts per million for this purpose The city's drinking water has heretofore been brought in from the town of Armona, about 40 miles east of Coalinga, in railroad tank cars. This situation has resulted in an extremely expensive domestic water supply. It has necessitated the installation of a dual water system with parallel pipes to carry both brackish and fresh water The transportation cost of the drinking water alone is $7.05 per thousand gallons.

The city conducted a six-week test of a model 300 B Ionics, Incorporated demineralizer. This plant employs an electrodialysis system in which membranes in a stack, when charged with a direct current, will permit the flow of anions and cations through alternate membranes. The test of brackish water pumped from the ground demonstrated the ability of the device to produce aproximately 200 gallons of water per hour, with a mineral content of approximately 250 parts per million and at a cost of approximately $1 per thousand gallons.

In May, 1958, the city concluded an agreement with Ionics, Incorporated for the installation of a plant with a capacity of 28,000 gallons per day. The city's fresh water requirements heretofore supplied by rail have been approximately 17,000 gallons per day. It is estimated that the city will save approximately $400,000 in the next 10 years as a result of the reduced cost of converted water.

While the water cost and supply situation at Coalinga represents an extreme case, it is significant that a solution has been found through the application of saline water conversion techniques. It appears probable that the future development of means of applying saline water conversion will largely come about through solving similar unusual problems. The decisions to turn to conversion unquestionably must be based upon an analysis of relative costs, including economic studies of

the factors involved in supplementing existing water supplies with increments of relatively higher priced water.

In January, 1959, the Southern California Edison Company announced a contract with Cleaver Brooks Special Products, Incorporated of Waukeska, Wisconsin, for a sea water conversion plant for installation at Oxnard, California, to be completed in 1959. The plant will be a 100,000-gallons-per-day capacity flash-evaporation unit The installation is regarded as a pilot plant for the study of costs and the problems of scale and corrosion formation.

Flash distillation has been recognized as one of the most promising of the evaporation processes. A small pilot plant utilizing the principle of evaporating water at less than the normal sea level boiling temperature in a partial vacuum has been operated experimentally at the University of California Richmond Field Station for the past several years. This process is also the process which has been under co-operative study for the Office of Saline Water and the California Department of Water Resources by the Fluor Corporation of Whittier, California Undoubtedly, this process will be given serious consideration for one of the demonstration plants to be built by the Federal Government.

FUTURE FOSSIL FUEL AVAILABILITY

The subcommittee was specifically charged with responsibility to develop information on future cost and availability of fossil fuels as this problem relates to the California water problem. Interest in and concern with this problem stems from the realization that fossil fuel is the principal basic resource upon which our present energy economy rests, and that the transportation solution to our water problems will require tremendous amounts of energy. The energy required will be in excess of the energy which can be contributed by the construction of power plants in conjunction with storage reservoirs and aqueducts.

The material contained herein on this subject does not attempt to provide a definitive answer to the question of whether sufficient energy will be available at a cost which will permit the successful operation of large scale water transportation projects when these can be constructed and operated. Rather, the purpose of this report is to establish a basis for understanding and evaluating this problem It is imperative that developments in the energy field be the subject of continuing study so that final decisions committing the State to long-term courses of action will be based on sound data and criteria

The Delta Diversion and San Joaquin-Southern California Aqueduct portions of the Feather River Project, as described in the report on financing and construction of the California Water Plan, Bulletin 3, would require huge amounts of electric energy. By 1995, when all major pumping units would be in operation, energy requirements for transporting water to Southern California would be approximately 8 billion kwh. per year. Energy production of the entire Feather River Project system is expected to be approximately 4 5 billion kwh , indicating that the annual power deficit, excluding the requirements of other related projects, such as the South Bay Aqueduct, will be approximately 3.5 billion kwh.

During the time these energy requirements would be coming on the line, California's overall energy needs are expected to increase rapidly. The swift growth of industry and population between 1940 and 1950 was accompanied by a 250 percent increase in electric energy consumption and, by 1956, the increase over the 1940 consumption was almost 480 percent. The anticipated future growth of California's population is well known, and this growth is expected to be accompanied by increasing per capita consumption of electric energy. The compounding effect of growing population and increasing per capita electric energy consumption is expected to result in California's electric energy consumption in 1975 being alomst four times that of 1956.

The economic feasibility of the transmountain pumping scheme envisioned in Bulletin 3 will depend heavily on the availability of large blocs of low-cost electric energy In a larger context, so will the State's overall economic growth For these reasons it is absolutely essential that project plans realistically evaluate the future prospects for low-cost energy availability, not only for the period during which pumps will be installed, but for the entire life of the project

It appears that the bulk of California's future electric energy is planned to come from steam plants rather hydroelectric installations While the contribution from hydro plants has been increasing in recent years, the output of steam plants has been increasing at an even faster rate Because of the limited number of favorable hydroelectric sites which remain undeveloped, it can be anticipated that the ratio of steam to hydro-generated power will continue to increase

Bulletin 3 suggests that the Feather River Project system pumps for lifting water from the delta and over the Tehachapi Mountains into Southern California will be driven by off-peak power from the steam electric plants In view of the projected increase in overall electric energy demands and the expectation that these demands will be met by steam plants, this concept appears feasible providing the *cost* of such off-peak power is in the low range contemplated in Bulletin 3. The cost of off-peak steam power is just as important, if not more so, than the existence of ample generating capacity if the idea is to be feasible.

Dependence on off-peak steam power for the project is based on the assumption that this power will be available at low cost. If a major cost component of such power, which is fuel, were to increase substantially in price, the cost of off-peak power could conceivably increase to levels which would ncessitate extensive re-evaluation of the project Major readjustments in estimates of water costs at the receiving end of the aqueduct system would probably be required and the feasibility of the entire scheme might become questionable

The future availability of fuels as the major item of conventional steam power cost takes on critical importance in this context Steam plants in California presently burn fluid fossil fuels, petroleum products and natural gas. Coal is often mentioned as a possible future fossil fuel for California. All fossil fuels are stock resources, fixed in quantity by nature In view of the nonrenewable character of these resources and increasing overall energy demands, availablity of ample supplies at acceptable cost is of fundamental importance to any consideration of future low-cost energy availability.

The fossil fuel cost element is of especial importance to electric energy production. Competition with steam plants for available supplies of these fuels comes from such specialized uses as transportation and the petrochemicals industries. Steam plants, unlike these specialized consumers, can utilize fossils fuels in liquid, gaseous or solid form. Because of this relative indifference to the physical form of fuel, steam plants are usually able to consume that fuel which is available at lowest cost. Specific fuels move to those end uses which pay the highest price For these reasons, the less flexible specialized end uses of fossil fuels can be expected to outbid steam generation plants in competition to purchase fuels of a specific type. Only fuels which are not in demand by specialized uses, such as natural gas in off-peak hours or oil refinery residual oils, are generally burned in California steam plants.

Many studies in recent years have predicted that the United States will enter an age of fluid fossil fuel scarcity in the foreseeable future. These predictions would appear to have a certain validity for California in view of the recent declines in discovery and production rates for petroleum and natural gas fields in the State. California's future is possibly more vulnerable with respect to such shortages because of the State's traditionally high dependence on these particular energy sources. If such fuel shortages were to become pronounced in the period when major transmountain pumping facilities were being installed or in operation, it would be reasonable to expect material increases in the cost of electric energy, and thus increases in the cost of water delivered by the system Dependent on the magnitude of such cost increases, they could have a major impact on the economic feasibility and the most efficient sizing and operating characteristics of the project.

Any consideration of future fossil fuel costs cannot ignore the prospects of nuclear energy The Atomic Energy Commission has set a goal of achieving economically competitive nuclear power in the United States *during the next 10 years*. The relationship of this goal to fossil fuel costs was recently described by Atomic Energy Commissioner Harold Vance as follows:

> "The United States has relatively abundant supplies of fossil fuels However, even in the United States there is a clear need for development of a new source of energy to supplement present sources Assessment of timing of this depends upon projections of energy requirements, estimates of relative costs, and judgment of the importance of conserving fossil fuels for special uses in the chemical, metallurgical and propulsion fields."

Rising fossil fuel costs would hasten the coming of economically feasible nuclear based electric energy. The implications of this for the Feather River Project system, with its huge energy requirements, are obvious.

The economics and technology of future energy supply are broad and complex fields, and any appraisal of California's future prospects is, necessarily, speculative The predictions made by experts in these fields are not completely in agreement. This survey is based upon a review of recent literature on this subject, the statistical history and discussions with recognized authorities. The conclusions it reaches are general rather than definitive It will consider the past history and

future prospects of present fossil fuels used in California and briefly discuss possible alternatives. The discussion is concerned with California's future energy supply as a key element in the feasibility of the Feather River Project and the related system of pumps and aqueducts designed to transport water into Southern California.

Petroleum

The basic fossil fuel raw material in California is crude petroleum. The petroleum end product of major importance to steam electric generation is heavy fuel oil. The quantity of this fuel oil available at any particular time at prices acceptable for steam electric generation is a result of total petroleum refinery input and the mix of the product output. The share of this product mix devoted to heavy fuel oil is largely determined by prevailing economic and technological conditions. Primary factors are the price, quality and availability of crude oil and the market demand for the various finished products.

In recent years, California's crude petroleum supply situation has undergone a fundamental change For the first time in its history, the State has been importing more petroleum than it is exporting. This shift to a net import position is in marked contrast to the State's long history as the petroleum supplier to the western United States and, for a period of several years, to the East Coast. This change has come about not only because of increasing consumption within the State, but also because California's own petroleum production has been declining.

The statistical record of petroleum production in California provides a typical case history of the life cycle of a local petroleum resource. Primitive development took place as early as 1860 in the vinicity of surface oil seeps By the 1900's, more systematic exploration techniques, improved understanding of petroleum field dynamics and more highly developed technology resulted in discoveries averaging 77,000,000 barrels a year and, by 1913, production from California wells was accounting for almost 40 percent of all oil produced in the United States. Production and the quantity of proved reserves continued to increase, but in the late 1930's the rate of increase began to taper off. By the mid 1950's, production and proved reserves not only failed to increase, but began to decrease, despite continued increases in demand.

The downward trend in production and the quantity of proved reserves has been accompanied by, and partially a result of, a decline in the success rate of efforts to locate new oil supplies, despite intensive exploration activity Between 1946 and 1956, the average depth of exploratory wells increased from 4,360 feet to 5,156 feet. The total footage of such wells drilled in these years more than doubled. These efforts have been carried on in the face of rising costs and an increasing percentage of unsuccessful explorations

The lack of success of these efforts to expand the quantity of proved reserves in a time when demand for petroleum products was increasing rapidly is reflected in production rates The alltime peak in production was reached in 1953, with 365 million barrels, but since that time, annual production has declined, on an average, approximately 65 million barrels per year The decline can be expected to continue indefinitely, according to a recent study by the Chase-Manhattan Bank, with onshore production declining from 961,000 barrels a day in 1956

to 855,000 in 1966, prior, it should be noted, to the time when the first delta diversion pumps of the Feather River Project would come on the line

The Chase survey further predicts that about 70 percent of the State's onshore petroleum reserves have already been discovered. The extent of proved reserves reached its highest point in 1954, with 3 92 billion barrels, but as new additions failed to match production, known reserves have decreased on an average by five millions barrels a year. These statistics indicate that California increasingly will need to look to sources of petroleum outside of its own borders and shores to provide for its needs in the period when the transmountain water transportation facilities are scheduled to be coming into operation

If the prospects of meeting future needs from California's known oil fields do not appear good, there are possible developments which might relieve the situation. The Chase survey indicates that the State's offshore reserves may be about three million barrels, and peak production from this source would be about 200 thousand barrels per day between 1975 and 1985 Another possibility for relief is the development of a means of producing petroleum presently left in the ground as not economically or technically recoverable. This has been estimated as reported to the Joint Congressional Committee on Atomic Energy by the Panel on the Impact of the Peaceful Uses of Atomic Energy to be about 10 billion barrels in California Presently, such oil is being partially recovered in California through flushing and repressurization of some underground reservoirs with water and natural gas. These possibilities are speculative and their impact on energy costs, an especially critical factor for large-scale water pumping, cannot be gauged on the basis of present knowledge

The State's growing dependence on imported petroleum is illustrated by the increase in imports from 9 percent of the total consumed in 1955 to 21 percent in 1957. The Chase Bank survey forsees an impressive 269.4 percent increase in the quantity of imports between 1956 and 1966. While California is relatively isolated from the major overseas oil producing regions, it is favored with ample deep water port facilities None of the contiguous states are large exporters of petroleum, but pipelines have connected California with major oil fields in the southwest.

It is widely accepted that California will become more heavily dependent upon foreign sources for its crude oil in the future. While petroleum is presently in ample supply in overseas areas, it cannot be assumed it will be available in unlimited quantities and at present cost levels indefinitely into the future A major oil company official recently stated that United States consumption will increase one-third in the coming 10 years while European demand will grow even faster. As worldwide petroleum consumption increases, it can be expected that competition for available supplies will exert upward pressure on prices. The probable impact on the cost of petroleum in California as a result of growing reliance on imports was indicated in the following statement by the chairman of the board of the Standard Oil Company of California:

> " * * * You should not be misled by statements that * * * foreign oil is cheaply produced. For example, the numbers of em-

ployees involved in producing Arabian oil is measured in tens of thousands and you are all aware of the very high royalties which we have to pay to these foreign countries In other words, these oils when laid down in California are costly indeed."

In addition to the cost factor, reliance on foreign sources for petroleum involves political, economic and stategic hazards which could halt supplies at any time In the United States, localities presently exporting large quantities of petroleum may not permit the continued exploitation of a limited resource when shortages threaten. These factors can be expected to become more critical if, as is widely expected, oil shortages develop on a national and worldwide scale

Opinions about future petroleum availability vary, but it has been estimated that peak production in the United States will be passed as early as 1970, with production thereafter in diminishing quantities and at higher costs. Similar estimates have placed the worldwide peak production period in the 1990's If these estimates are valid, it indicates the petroleum shortage will be well advanced before the pumps for transmountain pumping are installed to full capacity

The steam generation of electricity would probably not be affected in exactly the same manner as more specialized uses of petroleum, such as transportation, by a serious shortage of crude petroleum Heavy fuel oil, for which steam generation is the major customer, is subject to peculiar supply and demand conditions.

In the postwar period, developments in the traditional markets for heavy fuel oil have acted to decrease demand. Dieselization of the railroads eliminated a major prewar customer Natural gas pipelines of large capacity were constructed into Southern California from the southwest, introducing effective competition in the low cost heat market. The entry of natural gas and oil pipelines into the Pacific Northwest eliminated a traditional market for California oils Because of its unpleasant byproduct, smog, fuel oil has become a less desirable source of energy in some parts of California. The marketing problems posed by these developments were further complicated by a greatly increased refinery output of light petroleum products, of which heavy fuel oil is an inevitable residual byproduct, which acted to increase fuel oil supply.

Offsetting these factors has been a reduction in the fuel oil yield per barrel of crude oil in favor of lighter products as refinery technology has advanced, a development encouraged by the low fuel oil prices prevailing during much of the postwar period In addition, imports, often of higher quality and lower heavy oil yield than domestic crudes, have been annexing a growing share of total refinery crude input. As other customers have disappeared, power generation has increased its share of total heavy oil consumption, from about 3 percent in 1940 to more than 20 percent in the 1950's.

Speculation about the future role of petroleum, and especially heavy oils, in steam generation must recognize the interdependence between prices of competitive fuels because of the flexibility of power plants in choosing fuels. A Pacific Gas and Electric Company official recently stated that coal will become competitive with fuel oil in California when the price of fuel oil reaches $3 per barrel While 1958 fuel oil prices were under $2 25 per barrel in some California localities, in recent

years they have gone as high as $2 95 and the long-run trend since 1930 has been upward. In this context, it is significant that many oil burning steam plants constructed in California in recent years are also equipped to burn coal Thus, it appears that the cost of coal will effectively set a ceiling on the price of fuel oil for steam generation, a ceiling considerably above present day fuel oil prices.

Natural Gas

Natural gas both complements and competes with petroleum as a basic factor in California's energy supply. Its physical characteristics and the history of its exploitation in California closely parallels that of petroleum.

The early growth of natural gas markets in California had to wait upon the development of distribution systems Legislation outlawing the wastage of gas produced incidental to petroleum extraction and technical developments in pipeline construction, both coming in the late twenties, accelerated market development Because of the impracticability of large scale above-ground storage or export, production and consumption of natural gas in California have been tied closely, increasing from 350 billion cubic feet in 1930 to almost 571 by 1948.

As with petroleum, natural gas produced in the State failed to meet demand for the first time in the early postwar period Consumption has continued to increase, reaching one trillion cubic feet in 1957, but production has been decreasing about eight billion cubic feet each year since 1948. The record of increasing exploration costs and decreasing success rates for petroleum has been repeated in the natural gas industry and, as a result, the quantity of proved reserves has been decreasing about two billion cubic feet per year The increasing deficiency between in-state production and consumption has been met by pipeline imports from the southwest, and by 1957 more than half the State's requirements were supplied by imported gas.

There are indications California will increasingly have to look further beyond its borders for gas supplies in the future It has been estimated that gas consumption in the western states will increase 85 percent in the next 10 years The Chase Bank survey predicts that West Coast demands in 1966 will be three times those of 1956 As pipelines spread over the Nation, similar demand increases are expected to occur in other areas of the Nation

The ability of the Nation's gas reserves to meet these anticipated demands has been questioned by some authorities It has been predicted that gas fields in the United States will pass peak production about 1980. Unless major technical obstacles to maritime transportation of gas can be overcome, reliance will of necessity continue to be upon sources which can be tapped with overland pipelines The appearance of gas shortages in the face of growing demands could be expected to lead to higher prices and possibly to economic and political pressures to conserve supplies for home consumption in exporting localities These trends, if predictions of future consumption and production are valid, would become pronounced early in the life of proposed transmountain water transportation facilities

As with fuel oil, the gas currently used for steam generation has market characteristics somewhat different from the total gas market,

The economic advantages of maintaining high operating factors on costly piplines result in large quantities of gas being available in periods when domestic and other specialized demands are low. For steam electric generation, these off-peak deliveries are usually a less costly source of heat than fuel oil under present conditions. In recent years, about 20 percent of the gas imported into the State has been burned in steam plants in off-peak gas consumption periods by plants generating about 65 percent of the State's steam electricity.

Other factors than price contribute to the desirability of gas as a fuel for steam plants Unlike fuel oil or coal, gas is believed to be comparatively guiltless of contributing to air pollution, a characteristic of growing importance in California. It is also considered to have highly desirable characteristics of flexibility and general convenience.

One of the first major effects of a natural gas shortage would possibly be on off-peak, low price deliveries. Unlike fuel oil, which is physically different from other liquid petroleum products and is suitable only for a limited number of uses such as steam generation, the gas burned in steam plants differs from the gas used for higher price uses only in time of availability, not in physical form. If the cost of gas were to increase materially, sales at low price off-peak periods might no longer be economically practicable. The alternatives would probably be storage of off-peak deliveries for later distribution in on-peak gas consumption hours or lower load factors on pipelines or a combination of these two. A possible indication of what may be expected in the future is indicated by the growing use of underground basins in recent years to store off-peak deliveries for later distribution in on-peak periods. At a higher price level for imported gas, it could conceivably be to the advantage of gas importers to discontinue off-peak, low price deliveries.

In the long run, and this includes the period in which the delta-diversion and transmountain pumping facilities would be installed and operating, it appears inevitable that the cost of natural gas in California will increase. The costs of exploration have been rising and the returns in terms of new discoveries have been diminishing in the United States. Long distance pipelines are costly. Competition for available supplies is expected to become more intense. Some of these trends are apparent now and others can be expected to appear before the power requirements of the Feather River-Southern California water transportation project attain their ultimate planned level.

Coal

Known coal resources in California are negligible in quantity and poor in quality and the bulk of coal to be burned here would almost certainly be imported. The United States Geological Survey has estimated coal reserves in the Rocky Mountain states range from an estimated 212 3 billion tons in Colorado to 10 7 billions in New Mexico.

A major disadvantage of Rocky Mountain coal as a low-cost energy source for California is its distance from consuming centers and consequent high transportation costs This disadvantage could possibly be overcome by technological innovations in transportation or power transmission Solid fuels in slurry form are now being successfully

transported by pipeline on a limited scale. This process presently requires large quantities of water at the input end of the pipeline, possibly an insurmountable obstacle for large scale operations at arid western mine sites. It is technically possible to convert coal to liquid or gaseous fuels which would permit pipeline deliveries, but presently these processes are not feasible where delivered fuel *cost* rather than physical form is the major consideration. The generation of electricity at mine site and transmission to distant consuming centers would be economically feasible if cost of transmission facilities and line losses were less than the cost of conventional transportation. None of these methods are presently being used to bring energy to California from coal-rich areas and must be considered possibilities, not certainties.

When, and if, coal supplants petroleum and natural gas in our low-cost fossil fuel base, it will be as a less desirable alternative to these fuels As with fuel oil, its undesirable combustion by-product, smog, may inhibit its wide scale use Coal would only come into general use for steam generation in California when oil and other fuel prices increase substantially above present levels.

In recent years, estimates of economically recoverable coal reserves have been adjusted downward but most authorities generally place the quantity at many times known petroleum reserves in energy equivalent. Even so, in the future, competitive pressures may be expected to push coal prices upward. The unavailability of fluid fuels for low-cost uses could greatly increase these competitive pressures during the projected life of the proposed transmountain pumping system.

Shale Oils

Oil from shales is widely regarded as the first alternative to petroleum as a liquid fuel in the United States. Known United States deposits are believed to constitute one of the largest concentrations of potential energy in the world Present technology can produce a primary processed product approximately equivalent to fuel oil in quality and cost at minesite. With further refining, premium fuels such as gasoline can be produced at costs only slightly higher than those presently incurred in producing these fuels from crude oil. Because of its attractiveness for the premium, specialized uses of liquid fuel, it may be expected to be costly as a low-cost heat source when compared to coal. By-products, such as a residual, may be available at low cost for steam generation If shale oil availability in quantity were to relieve competitive pressures on other fuels, steam generation might reap secondary benefits in lower costs for fuels such as gas or fuel oil, but in terms of the delta-diversion, San Joaquin-Southern California water transportation project energy requirements, shale oil availability at low cost must, as yet, be considered in the realm of speculation.

Conclusions

The subject of future energy resource availability is broad and complex and any study concerned with predictions of conditions which might exist many years hence must recognize inherent uncertainties The literature of past years provides many examples of predictions of dire shortages which proved unduly pessimistic in the light of subsequent history Major technological innovations, such as development of

economic methods of importing natural gas from overseas, gasification of petroleum or coal underground, or new methods of extracting oil from shale or sand could radically alter future prospects. The application of nuclear energy to extraction of shale oil and petroleum locked in sands and rock holds promise. The physical relationship between petroleum and natural gas production is highly complex and results in noneconomic influences on supply. Developments in solar energy applications, heat pumps or energy use methods could have major economic impacts. Nevertheless, certain generalizations about California's future energy situation can be made with reasonable assurance of validity

Predictions of future fossil fuel availability for California generally foresee growing shortages and higher costs for petroleum and natural gas, shale oils and, eventually, coal In the course of such a progression, low-cost fuel needs will be increasing rapidly, hydro power will be contributing a diminishing share of total energy needs and nuclear energy will be expected to assume a major role

The possible advent of competitive nuclear electric power has fundamental implications. Timing and extent will be dependent largely on the costs of present fossil fuel energy sources and nuclear fuels and, also, relative capital costs of conventional and nuclear steam plants. A recent statement by N. R. Sutherland, president of the Pacific Gas and Electric Company, emphasizes these points:

> "We now have nuclear power available and our studies show that Humboldt Bay atomic electricity will break even with conventional steam power fueled by $3 oil Our studies on a larger nuclear plant indicate that it could become competitive with the most efficient steam plants using $3 oil when unit capital costs are reduced to about $270 per kilowatt."

The Pacific Gas and Electric Company is committed to the construction of a 60,000 kilowatt nuclear plant at Humboldt Bay Admittedly, this site is in an area where conventional fuel costs are unusually high, but it suggests the time of economic nuclear power is near at hand

In the meantime, pending a wide scale introduction of nuclear power plants, our primary dependence for low cost energy will most certainly continue to be upon petroleum and natural gas. It appears that the cost of these fuels will increase in the future At some point in the upward price trend, use of Rocky Mountain coal and shale oil may become economically advantageous While these fuels are available in huge quantities and there appears to be no danger in the foreseeable future of their being depleted, it is questionable that they would be available in California at energy costs in the range of those achieved with current fuels The implications of possible future fossil fuel shortages and higher energy costs for the delta diversion and San Joaquin-Southern California portions of the Feather River Project are obvious in view of the absolute dependence of the plan on the availability of huge blocs of *low-cost* energy.

The *Atlantic Monthly* for November, 1958, gives the following appraisal of future energy prospects:

> "* * * American experts at the Geneva Conference estimated that the overall energy needs of the United States are increasing 3 percent a year, with the demand for electric power climbing 7 percent annually. On this basis they predict that the usable fuel reserves in the United States recoverable *at twice the present cost* will last only 50 years more, with the cost of all fossil fuels zooming before 30 years are out."

It appears that the cost of off-peak electricity in the future, when major delta diversion and trans-mountain pumping facilities would be installed and in use, may be prohibitive for large scale water transportation Conversely, developments in the nuclear energy field or other technological and economic changes could lead to power costs substantially below those of today.

In view of the many uncertainties surrounding future low-cost energy availability and its basic importance to the feasibility of the delta diversion and San Joaquin-Southern California water transportation plans, it appears that an intensive effort should be made, while the project is in the planning stage, to ascertain, with as much accuracy and in as great detail as is possible, the State's expected future energy requirements, possible sources of supply and probably cost ranges. This information is absolutely essential to an economic evaluation of the feasibility of the project It may be impossible to develop detailed and reliable data on energy costs to be expected as far as 30 or more years in the future. If this be the case, project plans should recognize the ramifications of these uncertainties and be adjusted accordingly.

1. **Question:** Have developments in the peaceful use of nuclear energy in the past two years continued to be an important factor in California's economic life?
   Answer: Yes

2. **Question:** In what way have these had an impact on California's water problems?
   Answer: In two ways. First, the development of competitive nuclear-derived electric energy appears more imminent. Secondly, nuclear energy is now definitely considered as a source of energy for pump lifts of transmountain transportation proposals.

3. **Question:** How does this relate to proposed solutions of California water problems?
   Answer: The continued availability of low-cost energy is essential to the economic and financial feasibility of these proposals.

4. **Question:** Is the availability of low-cost energy in the future in doubt?
   Answer: The most important single factor in the energy base of California is fossil-fueled steam-electric generation plants. Fossil fuel is a nonreplenishable natural resource which can be completely depleted and which will become more costly as it becomes more scarce.

5 **Question:** Does it appear that nuclear energy at relatively reasonable cost will be available before a crisis develops in the present energy sources?
   Answer: It appears entirely probable that nuclear energy can replace the dwindling supply of fossil fuel energy with a minimum of disruption of the economy.

6. **Question:** Are there other advantages to the use of nuclear energy for the water transportation energy requirements?
   Answer: Yes. It may be that nuclear energy sources will permit continuous rather than off-peak pump operation which, in turn, will reduce the size of aqueducts and pumps and require less capital.

7. **Question:** Have any advances been made in the application of nuclear energy to saline water conversion problems?
   Answer: This matter has received intensive study under a contract jointly supported by the State and the Federal Government with the Fluor Corporation of Whittier, California. Preliminary reports are encouraging.

8. **Question:** Has progress been made in the development of low-cost saline water conversion processes?
   Answer: Yes. There is now a federal program for the construction of five relatively large-scale conversion plants to test existing theories on a large scale.

9. **Question:** Will these plants produce water at a price which will be competitive with natural sources?
   Answer: No. These are research plants only and no known process presently is sufficiently refined as to produce water at such low costs.

10. **Question**: What will these plants do?
Answer: They will provide large-scale opportunities to test the actual operating characteristics of what are now laboratory methods of demineralizing saline water. In the course of such tests, it is hoped that ways of reducing costs will be learned.

11. **Question**: Will this program be of direct benefit to California?
Answer: Yes. The law provides that one of these plants of not less than 1,000,000-gallons-per-day capacity is to be located on the West Coast of the United States and it seems probable that this plant will be located in California.

12. **Question**: Can this plant be of help in connection with present water problems?
Answer: Yes. A number of California communities which have immediate need for water and others who are willing to support the long-range development of saline water conversion have indicated their desires to have the plant located in their locality.

13. **Question**: Will the State participate in the federal program?
Answer: Federal law provides for co-operation with states and local interests and, in fact, the California State Budget contains an item in the amount of $1,600,000 to provide such co-operation and to participate in the construction of demonstration plants up to one-half the cost.

14. **Question**: Are there other nuclear energy developments of significance to California's water problems?
Answer: Yes. The start of experimentation with controlled underground nuclear explosions has been made by the Federal Government.

15. **Question**: What is the significance of these experiments?
Answer: Scientists are speculating that such explosions might be used to store heat underground for power production, or to recover oil from extensive shale deposits, or even to effect the course of underground waterflows.

16. **Question**: When can such developments be expected?
Answer: Much research and development remains to be done. So far, there has only been one such controlled underground explosion. There will have to be many more before this technique can become an established method of production.

FINANCIAL REPORT

SUBCOMMITTEE ON WATER PROJECT POWER

Unexpended balance at start of 1958 Interim		$7,908.78
Members:		
Per diem	$100,00	
Mileage	175.20	
Books, publications	19.50	
Contract with the Legislative Budget Committee	2,558.46	
Total expenditures		$2,853.16
Unexpended balance transferred to Conservation, Planning and Public Works		$5,055.59

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1957-1959

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REPORT OF

ASSEMBLY INTERIM COMMITTEE ON MANUFACTURING, OIL, AND MINING INDUSTRY

House Resolution No. 237, 1957

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JOSEPH C. SHELL, *Vice Chairman*

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JESSE M. UNRUH

HELEN AMSBERRY, Committee Secretary

LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE, ASSEMBLY INTERIM COMMITTEE
ON MANUFACTURING, OIL, AND MINING INDUSTRY
SHAFTER, CALIFORNIA, January 5, 1959

Honorable Speaker of the Assembly; and
Members of the Assembly
Assembly Chamber, Sacramento

GENTLEMEN: Your Committee on Manufacturing, Oil, and Mining Industry created pursuant to House Resolution No. 237, herewith submits its report on matters studied during the 1957-59 interim period.

Two major topics have been studied by the committee during the 1957-59 interim period: subsidence in the Long Beach area assertedly due to the extraction of oil and gas, and the problem of the tax rate on agricultural minerals. Reports, studies and exhibits relating to these topics are available at the committee office.

Your committee sets forth in this report its findings and recommendations relating to the matters studied and is confident that the same will be valuable to the Legislature in its consideration of these matters.

The chairman desires to express his sincere appreciation for the co-operation he has received from the members of the committee The chairman and the committee members are grateful for the assistance and co-operation they received from witnesses appearing before the committee and to other persons who made valuable contributions to the committee.

Respectfully submitted,
(Signed by the following members)

H. W. KELLY, *Chairman*
JOSEPH C. SHELL, *Vice Chairman*
BRUCE F. ALLEN
PHILLIP BURTON
ROBERT W. CROWN
DOROTHY M. DONAHOE
WM. S. GRANT
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HERBERT R. KLOCKSIEM
FRANK LUCKEL
RICHARD H. MCCOLLISTER
ALLEN MILLER
EUGENE G. NISBET
JOHN A. O'CONNELL
JESSE M. UNRUH *(with reservations)*

RESOLUTION CREATING COMMITTEE

By Mr. Kelly:

House Resolution No. 237

Relative to constituting the Assembly Standing Committee on Manufacturing, Oil, and Mining Industry an interim committee

Resolved by the Assembly of the State of California, As follows:

1. The Assembly Standing Committee on Manufacturing, Oil, and Mining Industry of the 1957 Regular Session is hereby constituted an interim committee and is authorized and directed to ascertain, study and analyze all facts relating to the leasing, financing, discovery, development, synthesizing, production, waste, conservation, transportation, importation, treatment, refining, marketing, and use of oil, gas, and other hydrocarbon substances and any and all matters relating to or affecting oil, gas, and other hydrocarbon substances, and the subjects of manufacturing and mining, including the question of desirability or undesirability of having preferences for California bidders on public contracts, and including any problems arising out of the search for uranium ore, including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Assembly, including in the reports its recommendations for appropriate legislation.

2. The committee shall consist of the members of the Assembly Standing Committee on Manufacturing, Oil, and Mining Industry for the 1957 Regular Session. The chairman and vice chairman shall be the chairman and vice chairman of the standing committee. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, and after final adjournment until the commencement of the 1959 Regular Session, with authority to file its final report not later than the fifth legislative day after the constitutional recess during such session.

4. The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly and of the Standing Rules of the Assembly as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties

(a) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(b) To co-operate with and secure the co-operation of county, city, and city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee

(c) To report its findings and recommendations to the Legislature and to the people from time to time and at any time, not later than herein provided.

(d) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The sum of eighteen thousand three hundred fifty dollars ($18,350) or so much thereof as may be necessary is hereby made available from the Contingent Fund of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid from the said contingent fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

REPORT OF ASSEMBLY INTERIM COMMITTEE ON MANUFACTURING, OIL, AND MINING INDUSTRY

Subsidence:

Findings: The chief matter to come before the committee during the 1957-59 interim period was that relating to subsidence of land levels in the Long Beach area assertedly due to the extraction of large volumes of oil and gas during the last 20 years.

Two hearings were held in the fall of 1957 at which times the methods and manner in which the subsidence could be halted were discussed.

The City of Long Beach, after first favoring the establishment of a subsidence abatement district (Assembly Bill No 4163, 1957 Regular Session), in December, 1957, submitted to the committee a proposed

draft of legislation to provide for co-operative development and unit operation and repressuring of oil and gas pools. The proposal called for the promotion of voluntary agreements insofar as feasible by the Oil and Gas Supervisor. If voluntary agreement were not achieved, the supervisor was empowered by the suggested legislation to require the repressurization by unit operation. The proposal of Long Beach met with the approval of most of the operators in the subsidence area.

Legislation reflecting the proposals presented to the committee by the City of Long Beach was introduced in the 1958 Special Session. Assembly Bill No. 5 together with Assembly Bill No. 12 (providing for a city to enter into unit agreements) was passed by the Legislature and signed by the Governor (Chapter 73).

Recommendations: As legislation has already been considered and passed in reference to the subsidence problem, the committee makes no further specific recommendations. However, as some problems have developed since the legislation became law and due to the general gravity of the problem, the committee believes further legislative observation of the problem may be necessary.

Witnesses Appearing Before the Subsidence Hearings of the Assembly Interim Committee on Manufacturing, Oil, and Mining Industry, Long Beach, October 3-4, 1957

Wahlfred Jacobson, City Attorney, City of Long Beach
Raymond C. Kealer, Mayor, City of Long Beach
Hon. Craig Hosmer, Congressman, Eighteenth District
John Lambie, Assistant County Engineer, representing Los Angeles County Board of Supervisors
Dr. Frank S. Hudson, Engineering Consultant
Hon. Clyde Doyle, Congressman, Twenty-third District
William L. Horner, Vice President, Core Laboratories, Inc.
G. E. Woodward, Vice President, DeGolyer and MacNaughton
Rear Adm. Robert Campbell, Commander of the Naval Base in Los Angeles
Capt. Charles H. Neel, Civil Engineer Corps, U. S. Navy
Frank J. Hardesty, Chief Petroleum Engineer, Port of Long Beach
Bob Hoffmaster, Assistant Harbor Engineer, Port of Long Beach
Bernard E. McCune, Deputy City Engineer, City of Long Beach
Samuel Vickers, City Manager, City of Long Beach
Russell M. Brougher, President, Civic League of Long Beach
Martin N. Erck, Counsel and Secretary, Monterey Oil Co.

Witnesses Appearing Before the Subsidence Hearings of the Assembly Interim Committee on Manufacturing, Oil, and Mining Industry in Los Angeles, December 9-10, 1957

Raymond C. Kealer, Mayor, City of Long Beach
John C. Spence, Jr., Deputy City Attorney, City of Long Beach
Dr. Frank S. Hudson, Engineering Consultant, San Francisco
G. E. Woodward, Vice President, De Golyer and MacNaughton
Samuel E. Vickers, City Manager, City of Long Beach
Frank J Hardesty, Chief Petroleum Engineer, Port of Long Beach
Rear Admiral Ralph K James, Commander of the Long Beach Naval Shipyard

Edward C. Renwick, Attorney, Union Pacific Railroad Company
Lee S. Osborne, Vice President, Union Pacific Railroad Company
J. C. Scherer, Assistant Chief Petroleum Engineer, Union Pacific Railroad Company
P. S. Magruder, Executive Vice President, General Petroleum Company
Mrs. Bonnie Harter, Marine Improvement Association of Long Beach
Wahlfred Jacobson, City Attorney, City of Long Beach
Ivar Larson, Long Beach Harbor Oil Field
Mrs. Leon Olson, Landowner, Wilmington Field
Francis Hortig, Chief of Staff, State Lands Commission
Laurence B. James, Chief Geologist, California Department of Water Resources
Philip Brady, Deputy City Attorney, City of Long Beach

Agricultural Minerals

Findings: The Subcommittee on Agricultural Minerals of the Interim Committee on Manufacturing, Oil, and Mining Industry investigated the taxation of agricultural minerals and chemical fertilizers at a hearing held in Bakersfield in May, 1958.

Background to the Question. The Agricultural Code requires that manufacturers of commercial fertilizers and agricultural minerals pay a tonnage license fee and a $50 registration fee each year. Commercial fertilizer is defined as substances containing 5 percent or more of nitrogen, available phosphorus pentoxide, or potassium oxide, soluble in distilled water, singly, collectively, or in combination, except manures, hay straws, peat and leaf mold. Agricultural minerals are similar, except they contain less than 5 percent nitrogen.

Funds collected from tonnage taxes and licenses are used in law enforcement by the Bureau of Chemistry. The bureau sees that the laws are complied with protecting farmers and the general public in sales of various agricultural chemicals.

Prior to 1943, the tonnage tax was 25 cents a ton on commercial fertilizer and 10 cents a ton on agricultural minerals. In 1943, the commercial fertilizer tonnage tax was reduced from 25 cents to 20 cents a ton, and then in 1952 was further reduced to 15 cents a ton.

In 1955 the tax on agricultural minerals was reduced from 10 cents per ton to 3 cents per ton to be in effect for two years. During the 1955-57 interim period, the committee reviewed the tax problem and recommended in their report the continuation of the three-cent tax level for an additional two-year period until October 1, 1959 This was provided by the 1957 Legislature. The committee recommended, as well, that costs studies be made to determine basic information needed to establish a permanent relationship between commercial fertilizer and the agricultural minerals tonnage taxes. (See Assembly Interim Committee Reports, 1955-1957, Vol. 14, No. 2, pp. 7, 13-18).

In light of the above, the Subcommittee on Agricultural Minerals has continued the study of the problem.

Committee Findings. At the request of the subcommittee, the Legislative Analyst's office studied the cost implications of the tax to arrive at some basis for establishing an equitable tax rate. (See below for the full report.)

Cost studies conducted by the Legislative Analyst indicate that the proper relationship between the tonnage taxes on commercial fertilizers and agricultural minerals is 15 to 4 3 This calculation considers the cost of processing samples, collection costs, and the number of samples taken per ton; the major assumption being the tonnage tax on commercial fertilizers is equitable.

The above 15 to 4.3 ratio does not attempt to balance the revenues and expenditures of the Bureau of Chemistry. The existing rate for commercial fertilizers and agricultural minerals, according to the Legislative Analyst, would have to be increased to meet the current expenditure requirements if these two sources of revenue are to be relied upon for total support. To reach a balance of receipts and expenditures, the Legislative Analyst recommended to the subcommittee that consideration also be given to increasing revenues of the bureau by other means such as charging for the analyses of certain soil amendments and auxiliary plant chemicals which do not pay for the services performed on their behalf at the present time. To fully carry the bureau by means of existing taxes, the rates would probably have to be about 20 cents on commercial fertilizers and 6 or 7 cents for agricultural minerals.

The Legislative Analyst estimates that there is a surplus of about $400,000 in the special fund which provides resources for the Bureau of Chemistry to operate the agricultural minerals and commercial fertilizer inspection and enforcement. This surplus will be exhausted within about four years unless an adjustment is made in tax rates. The department's policy is that the amount of the revenue should equal the cost of one year's operation, or about $300,000

Allen B Lemmon, Chief of the Division of Plant Industry, Department of Agriculture, and formerly Chief of the Bureau of Chemistry, stated to the subcommittee that the general relationship between fertilizer materials enforcement is in the approximate ratio of 20 percent for agricultural minerals enforcement, and 80 percent for other classes of fertilizing materials, which includes commercial fertilizers, soil amendments, and auxiliary plant chemicals

Mr. Lemmon, in general, supported the assessment provided by the Legislative Analyst and recommended that consideration be given to a registration fee for auxiliary plant chemicals which are currently not paying for the inspection and enforcement services. According to Mr. Lemmon, there should be little opposition to such a fee as many of the auxiliary plant chemical firms also sell economic poisons, fertilizers or agricultural minerals In addition, the class of soil amendments (such as leaf mold, vermiculite, peat moss, etc.) could be examined to see if some of those included could be taken out and placed into one of the other currently taxable classes.

The California Fertilizer Association, according to M. M. Stockman, Chairman of the Legislative Committee, is as an industry in favor of the findings of the Legislative Analyst and the position of the Department of Agriculture. A ratio of about three to one between chemical fertilizer and agricultural mineral taxes is recommended by the association. Mr. Stockman asserted that the industry would support a measure to bring more money in from auxiliary plant chemicals, but noted that the amount of revenue would probably be small.

Harvey S. Holloway, President of the H. M. Holloway, Inc., pointed out to the subcommittee that the difference in price for gypsum as compared to commercial fertilizers is considerable. Gypsum sold by his company sells between $3.75 and $6.25 per ton as compared to rates for commercial fertilizers of $50 to $75 per ton. Therefore, the gypsum producer pays a much higher tax in proportion to his selling price. His findings indicate the tonnage tax on gypsum used in farming is about 12 cents to 15 cents per acre, whereas it is 6 cents to 7 cents per acre for commercial fertilizers. In addition, costs are lower for testing agricultural minerals and the samples taken are considerably less (five to one for 1956) in comparing commercial fertilizers and agricultural minerals. According to Mr. Holloway, it is reasonable and equitable to fix a tax on agricultural minerals at not to exceed the present rate of three cents per ton.

Recommendations: The committee recommends the retention of the three-cent tax per ton on agricultural minerals in view of the fact that the fund for inspection services is sufficient to continue the Bureau of Chemistry's functions for several years without additional tax income from the industry.

LETTER FROM MR. UNRUH

ASSEMBLY, CALIFORNIA LEGISLATURE, January 13, 1959

Honorable Speaker of the Assembly; and
Members of the Assembly
Assembly Chamber, Sacramento

GENTLEMEN: I am signing the committee report because it states the bare facts of the investigation into subsidence in the City of Long Beach and therefore is technically correct. However, I do not feel the committee report is specific enough in pointing out the deficiencies of the subsidence legislation which was enacted in 1958.

I also feel that the report should be much more specific in pointing out that certain oil companies and oil interests in the City of Long Beach have successfully dragged their heels for years and were able to insert, what appears to me to be badly weakening provisions into the subsidence measure. While that measure may be of some help in combating subsidence which threatens the continued existence of the City of Long Beach, I personally feel that if the committee had more thoroughly pointed out the offending interests, that stronger legislation could have been enacted. It appears to me that it certainly should have been.

Also, it would be my recommendation that a continuing legislative study of this problem is imperative if the welfare of the City of Long Beach directly, and all of Southern California indirectly, is to be protected.

Sincerely,

JESSE M. UNRUH

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ASSEMBLY INTERIM COMMITTEE ON
FINANCE AND INSURANCE

JESSE M UNRUH, *Chairman*

FINAL REPORT OF SUBCOMMITTEE ON LENDING AND FISCAL AGENCIES

MEMBERS OF THE SUBCOMMITTEE

JESSE M. UNRUH, *Chairman*

ROBERT W. CROWN
ERNEST R. GEDDES
RICHARD H. McCOLLISTER
WILLIAM A. MUNNELL
ALAN G. PATTEE
WILLIAM BYRON RUMFORD
HOWARD J. THELIN

March, 1959

ARTHUR E KAISER, *Committee Consultant*
MARVIN L HOLEN, *Committee Counsel*
MARION CERRELL, *Committee Secretary*

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ASSEMBLY
OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

ASSEMBLY, CALIFORNIA LEGISLATURE
SACRAMENTO, March 17, 1959

Honorable Speaker of the Assembly
Honorable Members of the Assembly
State Capitol, Sacramento

LADIES AND GENTLEMEN: In accordance with the provisions of House Resolution No. 235 of the 1957 General Session, your committee has spent considerable time and effort on research and hearings in the field of installment credit with a view toward proffering legislation necessary to adequately protect both the consumer and the merchandiser.

Contained herein are narratives of the several hearings which were held in San Francisco and Los Angeles, case histories of complaints received and the Retail Installment Sales Act which was introduced in the Assembly on January 20, 1959.

Also contained herein is an account of the hearings which were held in Los Angeles to examine into the reasons for the failure of the Equitable Plan Company of Los Angeles, and proposed legislation to protect investors in so-called "Investment Certificates" from suffering future losses such as occurred in this specific failure.

The committee wishes to express its appreciation for assistance rendered by Mr. Bernard Czesla of the Legislative Counsel's office; the Better Business Bureau of Los Angeles and San Francisco; and the many other agencies and individuals who were most co-operative and helpful in our investigation.

Respectfully submitted,

JESSE M. UNRUH, Chairman

ROBERT W. CROWN
WILLIAM A. MUNNELL
HOWARD J. THELIN
ERNEST R. GEDDES
WILLIAM BYRON RUMFORD
ALAN G. PATTEE
RICHARD H. MCCOLLISTER

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PART ONE

RETAIL INSTALLMENT SALES OF CONSUMER GOODS AND SERVICES

FINDINGS AND CONCLUSIONS

During the past 18 months the Subcommittee on Lending and Fiscal Agencies conducted an extensive investigation into the practices and activities of retail sellers engaged in installment selling of goods and services, and into the practices and activities of intermediate financing agencies engaged in the business of buying contracts arising from such sales. The findings resulting from our initial research will be found in the preliminary report of this subcommittee, Volume 15, No. 19, dated March, 1958, which contains a preliminary draft of proposed legislation.

The preliminary report above referred to, was given wide circulation and aroused a great amount of interest and co-operation. Conferences held by representatives of the Retail Merchants Credit Association of Los Angeles; the California Retailers Association; the California Bankers Association; and the Retail Furniture Association of California in San Francisco were attended by the subcommittee consultant who participated in the deliberations.

Our committee held one two-day public hearing in Los Angeles during August of 1958; a one-day public hearing in San Francisco in August and a final public hearing in San Francisco in December, 1958. The committee invited participation by all groups interested in or affected by proposed regulatory legislation. Such groups include Legal Aid Foundation, California Retailers, Better Business Bureaus, Public Defender, California Bankers Association, California Association of Industrial Loan Companies, Credit Bureaus, Retail Furniture Associations, etc. Invitations were also sent to numerous retail merchants and finance companies.

More than 20 consumers appeared and testified regarding their ill treatment at the hands of installment sellers or finance companies. A large number of additional consumer witnesses were willing to testify, but the pattern established by the witnesses who were called, coupled with the testimony of the representatives of law enforcement and protective agencies, established sufficient evidence of harsh practices to indicate the need for regulatory legislation. The major types of harsh practices are set forth below:

1. *Disclosures.* There is no legal requirement that full details regarding the cost and terms of the transaction be embodied in an installment contract or agreement.

2. *Blank Contracts.* Buyers are induced to sign contracts containing blank spaces to be filled in later.

3. *Financing Charges.* Numerous court decisions have held that a time price differential is not interest and is not subject to the usury act. Because time price differential is unregulated excessive amounts are exacted from the consumer.

4. *Rebates of financing charges* for prepayment are sometimes refused altogether or the amount of rebate is ridiculously small.

5. *Defenses and claims* of the buyer are cut off by assignment or sale of contracts to a holder in due course.

6. *Delinquency and collection charges* are assessed for whatever amount the traffic will bear.

7. *Wage attachments* are filed against a debtor for the nonnecessaries of life; against individuals not responsible for the debt; and where the credit standing of the debtor was not within the standards of good credit judgment; thus requiring the defendant to file a claim of exemption (if he was wise enough to do so) or suffer the possible loss of employment.

8. *Attorneys' fees and court costs* are charged against the account of the debtor although they are not always actually incurred and are not always paid over to an attorney.

9. *Repossessions.* Debtors are not always given the right of redemption or furnished with a statement of the actual costs involved or the amount obtained through a resale. Suits for deficiencies are sometimes delayed for an unreasonable time.

10. *Penalties* are necessary to insure ethical and legitimate performance in this field.

As the result of these hearings and conferences, the original draft of the Retail Installment Sales Law was subjected to considerable constructive revision, and is embodied in this report in its present form. Highlights of this proposed legislation are:

PROTECTIVE MEASURES

1. A contract must be printed in eight-point type and may not contain any blank spaces when signed by the buyer.

2. A contract must contain a notice printed in eight-point bold type, warning the buyer: (a) not to sign before reading; (b) that he is entitled to a completely filled in copy of the contract; and (c) that he has the right to pay in advance the full amount due and to receive a partial refund of the finance charges under certain conditions.

3. A contract must set forth clearly the cash sale price, the amount of the down payment and allowance for goods traded in, the type of insurance coverages, if any, and the charge for the insurance, the amount of the financing charge, the contract balance, the total cost of the goods or services, and the number, amounts and due dates of the required payments.

4. If any charge is made for insurance, it must be at authorized premium rates, and the buyer must be furnished with evidence that such insurance exists.

5. Financing rates may not exceed $10 per $100 per annum on the first $1,000 of the unpaid balance, and $8 per $100 on any amount in excess of $1,000, except that a minimum charge of $12 may be made if the term of the contract is over eight months or $10 if the term is eight months or less.

6. The seller is required to furnish the buyer with a legible, completely filled in copy of the contract, and until he does so, the buyer is obligated to pay only the cash price.

7. Refund of a portion of the finance charge must be computed according to a formula which has been accepted as standard accounting and banking practice. The seller or holder is permitted to retain a minimum finance charge.

REVOLVING ACCOUNTS

These accounts may be opened by personal application, mail or telephone, but the customer must be informed of the rate of the financing or service charge and the method of computing this charge.

1. Service charges may not exceed 1½ percent per month on the periodic monthly balances if the balance does not exceed $1,000, and 1 percent per month on any excess amount over $1,000.

2. By separate agreements, insurance may be charged by the seller and the seller may retain title to the goods sold until full payment has been made.

DELINQUENCY CHARGES

Such charges are not permitted on revolving charge accounts but may be provided for in an installment contract. The charge is limited to 5 percent of the past due payment or $5, whichever is less, provided the payment is 10 or more days overdue, with a minimum charge of $1 permitted. This charge may be made only once on any given installment.

COLLECTION CHARGES

If the contract so provides, the actual cost expended in the collection effort may be collected by the seller or holder, but only in the event the goods are removed from the State without permission, or the buyer fails to notify the holder of a change in residence, or the buyer fails to communicate with the holder within 45 days after any payment is past due.

ATTORNEYS FEES

Reasonable attorneys fees and costs shall be awarded to the prevailing party in any action on a contract or installment account regardless of whether the action is instituted by the seller, holder or buyer.

WAGE ATTACHMENTS

The salary or wages of a buyer are exempted from attachment for a period of 60 days from the date of default of the contract or installment account.

REFINANCING AND EXTENSIONS

Charges for such arrangements are provided in connection with installment contracts, with limitations on the rate of charge.

ADD-ON SALES

Add-ons to existing unpaid installment contracts are permitted subject to definite regulation of the recomputation of finance charges and the release of the security interest in the goods sold under a title retention contract.

REPOSSESSIONS

Repossession of goods sold under title retention agreements may be made by the holder. However, there are specific rights preserved for the buyer, such as:

1. Right to redeem goods on payment or tender of the costs and balance owing.
2. Right to have the resale price of the goods determined in a court action.
3. Right to receive notice of any intended resale
4 If the buyer has paid 80 percent or more of the time sale price a deficiency judgment is barred.

ASSIGNMENT OF CONTRACTS

A seller may sell or assign contracts or revolving charge accounts to a financial agency, but such sale or assignment will not alter the provisions of the law.

BUYER'S RIGHTS OF DEFENSE

Notice of assignment or sale of contracts or revolving accounts must be sent to the buyer by the holder with a notice that the buyer must, within 10 days, notify the holder in writing of any claim or defense he has against the seller. Unless the holder does this, no right of claim or defense which the buyer may have against the seller is cutoff by such assignment or sale.

PENALTIES

Willful violations are made misdemeanors, subject to a fine of $500 or six months in jail, or both. Under certain conditions, the seller or holder is barred from collecting any finance charges or delinquency, collection or other charges; and under other conditions, the buyer may recover three times the amount of such charges.

GENERAL STATEMENT AND OBSERVATIONS

It is not necessary to enter into a discussion regarding the influence of consumer credit, particularly consumer installment credit, as an economic force. It is commonly accepted as one of the major forces explaining the high levels of American prosperity and its maintenance at such high levels during the past 15 years.

While it is a fair conclusion that the sale of consumer goods and services on installment credit is a beneficial element in the movement of production and the stabilization of employment when the installment debt so created is judiciously administered, there is danger that if injudiciously administered, this debt can have a detrimental influence on the welfare of many individuals, and to some extent on the entire economy.

It is a time-honored principle that consumer credit should be extended to those who are entitled to it on the basis of their stability, ability to pay, willingness to pay and according to their station in life as related to the articles purchased, but should be refused to those who do not so qualify. When this principle is disregarded abuses can and do

arise through the use of tempting and sometimes misleading advertising and selling methods, overselling, abusive and costly collection methods, unconscionable and shamefully high financing charges, exorbitant delinquent and collection charges, inequities in the sale of repossessed merchandise and deficiency judgments, and avoidable wage attachments.

A number of operators in the field of installment contract financing have told staff members of this committee that they are obligated, because their competition takes the cream and leaves them only the dregs, to accept the credit of consumers who do not qualify according to the principles of good credit practices and it is consequently necessary for them to assess a high financing charge and to use every means at their command to enforce payment from these submarginal risks. This results in worthy credit buyers being burdened with higher than necessary costs because of the injudicious administration of consumer credit.

In this connection we quote from "The Consumer Finance Industry in Florida" by Lowell C. Yoder:

> "Certainly licensed consumer finance companies are entitled to, and must have, a legal rate sufficient to attract needed capital into the industry. High rates, however, do not necessarily mean high profits; as a matter of fact, a lower rate may conceivably result in greater net profits. The rate allowed is the important determinant of gross income, but net income is a function of the rate, volume, ability to collect, and operating efficiency. An unduly high rate may not only cut volume but also result in increased acquisition costs and add to bad debt losses through lowering of credit standards, thus reducing profits."

We might add that "ability to collect" is a concomitant of sound credit extension, and that collection costs are minimized when good credit standards are used and when flawless contracts are purchased.

The two main classes of consumer credit agencies which were investigated by this committee and which are involved in this report are: (1) retail merchants and service creditors who sell goods or services on installments and carry their own accounts; and (2) intermediary financing agencies, which buy contracts arising out of installment sales of goods or services. As was brought out in public hearings, practically all of the complaints involved financing agencies. This does not mean that all financing agencies are subject to criticism. Nevertheless, the number of these institutions which were the subjects of complaints is substantial enough to justify regulation of both classes of consumer credit agencies.

While no questionable practices on the part of merchants who carry their own paper was developed by our investigations and public hearings, still the selling practices of some merchants and high-pressure selling organizations who sell their contracts were subjected to critical review. These practices may have their roots in the condition described by Dr. Edwin F. Franke, Chief Counsel, Legal Aid Foundation of Los

Angeles, at the public hearing of this committee in Los Angeles, August 14, 1958.

> "One problem we have, particularly, is the fact that contracts are not fully filled out. 'Time Price' as originally started in England, was a situation in which a businessman was selling to the buyer and was handling the entire transaction himself and that was the basis for the theory that a cash price and time price might be different. However, as it developed, and particularly speaking of the area with which we are familiar, that is not the situation. The seller actually has no intention of extending credit. Previous arrangements are made with the finance company to finance the sale. The seller is paid cash, very often on the day of the sale, by the finance company. The finance companies supply the forms, a call is made, and they check and approve the credit; they set the rate, the terms and the conditions, and the time price is used as a subterfuge to evade the usury act; it is as simple as that. It is only a way of getting around the constitutional and legislative acts. One of the very large complaints in the field is that prices are advertised * * * they (the buyers) are told an article will cost a certain figure and then are given monthly payments for a two-year period, or one year, whichever the agreement calls for, (and) contracts are signed; of course, they show the cash figure (only), which is part of the deception."

A vivid description of how fast-talking and persuasive salesmen induced prospective buyers to sign blank contracts under the impression that the cash price was the full price was presented by Mr. Lloyd Jester, Inspector, Alameda County District Attorney's Office, at the hearing held in San Francisco on December 19, 1958. The modus-operandi is to use a combination credit information and conditional sale contract form, the upper portion of which contains the credit information and the lower portion of which contains the contract. The space for the buyer's signature is at the bottom of this form. By fast talk, or by placing his hand over the lower portion of the form, the salesman induces the buyer to sign, under the impression that he (the buyer) is signing the credit statement, although the contract portion is blank. Later, the seller fills in the financing charge and such other data as is needed to sell the contract to a financing agency. Not until the buyer receives notice from the finance company, is he aware of the full amount of his obligation, and not always then, for quite often the notice from the finance company is in the nature of a payment book containing a number of payment slips for a given amount each, but contains no other disclosures. Not until the buyer multiplies the amount on the slips by the number of slips, does he awaken to the amount of his commitment. These and other harsh practices should be eliminated by the enactment of our proposed legislation.

There are two different methods being used for determining the amount of the financing charge. One is the "time price differential" method, which provides for the addition of a precomputed amount to the amount being financed, and the other is the "credit service charge" method which provides for payment by the buyer of a percentage of the outstanding balance at the end of each monthly period. Each of

these methods is considered as the difference between a cash price and a time price for the purpose of affording the seller or holder a return on his investment plus his operating costs and profit, but neither method is looked upon as interest for a loan or forebearance.

However, in order to reduce the rates charged under each method to a common denominator, the constant ratio formula may be used. Inasmuch as the time price differential method is precalculated on the amount being financed, and is not calculated on the reducing balances, a simple formula (which is reasonably accurate) is the annual rate of the time price differential multiplied by 1.846. Thus a rate of five-sixths of 1 percent per month, as provided in Section 1805.1(b) of the proposed legislation, becomes a rate of 10 percent per annum, which, when multiplied by 1.846 becomes an annual cost rate of 18.46 percent.

To find the annual cost rate when the credit service charge method is used, the rate per month is multiplied by 12 (the number of months in a year). Thus, 1½ percent per month, as provided in Section 1810.4 (a) of the proposed legislation for installment accounts, becomes 18 percent annual cost rate. This is reasonably close to the time price differential rate provided by Section 1805.1(b).

The exhibit of time price differential rates on the following page is limited to schedules which will provide a comparison and also reveal some of the harsh rates which are currently being used in California. Omitted from this exhibit are rates currently in use by banks, major finance institutions and retail merchants who carry their own contracts. The rates used by banks and major finance companies are mostly under $12 per $100 per annum, with many being below $10 per $100 per annum. The rates charged by retail merchants who carry their own contracts are customarily less than $10 per $100 per annum.

It is hard to believe that any mature individual would enter into an agreement to pay a finance charge of $132 for a motor repair job costing $300 for one year's financing, or $264 if financed for two years. Nevertheless, as revealed in public hearings held by this committee, this happens with recurring frequency. The buyer seems to be interested only in the amount of his monthly payment and his need for transportation. The seller (garage operator) is aware of this attitude and by fast talk confined to the cash price and the monthly payment, he secures the signature of the buyer to a work-order authorizing the repairs, and to a chattel mortage note containing a promise to pay so many installments of so much a month. None of the notes which were inspected by our investigator disclosed the amount of the finance charge or the total time balance. Rarely did this information appear on the work order, and when it did, the buyer protested that it was filled in after signing.

Lieutenant Mark W. Smith, of the Los Angeles Police Department testified in part as follows at the public hearing held in Los Angeles on August 14, 1958, and this testimony was corroborated by a number of stories of individuals who appeared at this same hearing

> " * * * generally speaking, the pattern of complaints falls in this category: the complainant, usually where advertising a $49 overhaul job, or a $59 or perhaps an $89 overhaul job occurs, which comes into a small group of the industry, signs up for this auto repair work. Before the contract is signed up they (the garage

EXHIBIT A

COMPARATIVE EXHIBIT OF TIME PRICE DIFFERENTIAL RATES

Based on a 12-month Contract

Unpaid balance	Schedule No. 1		Schedule No. 2		Schedule No. 3		Schedule No. 4		Schedule No 5		Schedule No. 6		Schedule No 7	
	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent	Finance charge	Annual cost rate in percent
$ 100	$10 00	18.46	$12 00	22.15	$10.00	18.46	$17.22	31.79	$12 00	22.15	$15 79	29 15	$44.00	81.00
300	30.00	18.46	36 00	22.15	30.00	18.46	46.44	28.58	36.00	22 15	47 37	29 15	132.00	81.00
500	50 00	18.46	54 00	19.94	50.00	18.46	74.10	27 36	60.00	22.15	78.95	29 15	220 00	81.00
1,000	90 00	16.61	99.00	18.28	100 00	18 46	119 38	22 04	120 00	22.15	157.90	29.15	440.00	81.00
1,500	130 00	15.99	139.00	17 11	140.00	17 22	152 69	18.79	180.00	22 15	236 85	29.15	880.00	81.00
2,000	170 00	15 69	179.00	16 52	180.00	16.61	183 24	16.91	240.00	22 15	315.80	29.15		
2,500	210 00	15 51	219.00	16 18	220 00	16.34			300 00	22.15	394.75	29.15		
3,000	250.00	15 38	259 00	15 93	260 00	15.99			360 00	22 15	473.70	29.15		
3,500	290.00	15 30	299.00	15 76	300.00	15 82			420.00	22.15	552 65	29.15		
4,000	330.00	15 23	339.00	15.65	340.00	15 69			480.00	22 15	631.60	29 15		
4,500	370.00	15 17	379.00	15.54	380 00	15 58			540 00	22.15	710.55	29 15		
5,000	410 00	15 14	419.00	15.47	420.00	15 51			600.00	22.15	789 50	29.15		

Explanation of Above Schedules

SCHEDULE No 1 Rates established by the New York Retail Installment Sales Act. $10 per $100 per annum on the first $500 being financed, $8 per $100 per annum on the excess over $500

SCHEDULE No 2 Rates established by the Kansas Sales Finance Act $12 per $100 per annum on the first $300 being financed; $9 per $100 per annum on the excess over $300 but less than $1,000, $8 per $100 per annum on the excess over $1,000.

SCHEDULE No. 3. Rate proposed by California Assembly Bill No. 500. $10 per $100 per annum on the first $1,000 being financed; $8 per $100 per annum on the excess over $1,000

SCHEDULE No. 4 Precomputed approximations based on rates authorized for loans made by personal property brokers under Division 9 of the California Financial Code The following rates are applied to the reducing balances· 2½ percent per month on the first $100; 2 percent per month on the next $400, 5/6ths of 1 percent on the excess over $500 No figures are available for amounts over $2,000

SCHEDULE No 5. Rates established by Section 2982 of the California Civil Code governing the sale of motor vehicles under conditional sale contracts 1 percent of the unpaid balance multiplied by the number of months elapsing from date of contract to due date of last installment, which may be stated as $12 per $100 per annum.

SCHEDULE No 6 Popular rates used in California by sellers of home furnishings and equipment who sell their contracts The rate used is $15 79 per $100 per annum.

SCHEDULE No 7 This rate is used by a number of Los Angeles automobile repair companies. $44 per $100 per annum Contracts seldom exceed $1,000

operators) generally check with the finance company to see if they can qualify for some type of credit. When the job is done, the repair bill has been itemized, and then the customer, some 10 days later, receives a copy of the contract from the finance company which merely states the amount of payment a month, for so many months. But he has never, to my knowledge, been advised during the signing of these contract papers, these chattel mortgages, what the interest rates might be. In many cases we find that the contracts, insofar as financing is concerned, have been signed in blank. We don't know of any cases where the carrying charges have been noted on the chattel mortgage at the time the customer signs. He doesn't know until some 10 days later."

Chairman Unruh asked Lieutenant Smith if it was customary to take a chattel mortgage on the automobile in these motor reconditioning operations, to which Lieutenant Smith replied, "That is the class of finance contracts they draw up. If additional collateral is needed, they may take title to the furniture, if the car isn't worth what the final bill is * * * they may tie up the furniture in addition. * * * "

Motor repair notes which came to our attention, were sold by the garage operator to personal property brokers, and the buyer's right of claim or defense was cut off by this sale. Had the same personal property broker who bought a note covering a cash job worth $300, loaned the buyer $300 secured by a chattel mortgage on the vehicle, and furniture, if necessary, the maximum amount which could have been charged, pursuant to the Personal Property Brokers Law, would have been $46.44 for one year, or $92 81 for two years, instead of $132 or $264 respectively. This substantiates the statement of Mr. Edwin F. Franke, previously quoted, that time price theory and deception are used to evade the usury act and to reap a large profit

A common practice among sellers who use the rates in Schedule 5 of the exhibit of time price differential rates, is to prevail upon the buyer to sign a contract for two years. Thus, the charge on a $500 contract would be $157.90. Under the pretext that the typist is busy or out of the office, the buyer is induced to sign the contract in blank, when he is aware only of the amount of the cash price and monthly payment. Another advantage gained by the seller or holder, at the expense of the buyer arises when prepayment is made. Should the buyer pay off a 24-month $500 contract in 12 months, the rebate, according to the rule of 78 (explained elsewhere in this report) would amount to $41 05. The cost to the buyer would therefore be $116 85, whereas, had the contract been written on a 12-month basis, the cost would have been only $78.95, a difference in the buyer's cost of $37.80.

Statements have been made, particularly by representatives of financing agencies, that the rates set forth in Assembly Bill No. 500 are too low and that rates should be at least as great as is provided in Section 2982 of the Civil Code, relating to the sale of motor vehicles, namely $12 per $100 per annum, without any provision for reducing the rate as the amount being financed increases. These statements have been general in nature and have not been supported by any factual or statistical evidence that the rates proposed in this legislation are not sufficient to absorb costs and produce a profit.

The merit in a rate schedule which reduces as the amount being financed increases, lies in the fact that the transaction cost of handling is no greater on a contract for more than $1,000 than it is on a contract for only $100 except for the cost of investigating the buyer's credit standing. On the other hand, the buyer's credit responsibility, if good business practices are followed, should be more substantial for a large amount than a small amount of debt, and if so, collection costs will be less. This philosophy has precedent in the rates permitted by the Personal Property Brokers Law and the Industrial Loan Law.

Protests against the rate structures will no doubt be repeated in hearings on Assembly Bill No. 500. Unless these protests are supported by substantial evidence that higher rates are a necessity, the committee feels the rates as provided in this bill should stand.

Minimum rates are provided by Section 1805.1(c) for the purpose of absorbing acquisition costs, which include the costs of credit investigation and processing the documents involved in setting up the account.

No standard policy for refunding part of the financing charges when prepayment of a contract is made is in existence. During the committee hearings in Los Angeles, August 15, 1958, the following testimony was given:

1. Mr. Richard Harvey of San Diego testified that he was charged $517 carrying charges on a $1,200 unpaid balance on a contract for appliances which had been assigned to a finance company. The contract was for a period of 24 months. When he asked the manager of the finance company if he could pay off the balance and get a refund, he was told that on this type of loan he would have to pay off the full amount. Upon pressing the matter, he was informed that the only way he could get a reduction, was to convert the contract to a loan with them, in which event they would allow him approximately one-half of the carrying charges. The contract had only run three or four months.
2. Mrs. Jean Land of Los Angeles testified that she signed a blank contract for furniture and found upon receipt of notice from the finance company to whom it had been assigned, that a service charge of $170.40 had been made against a balance of $540 payable in 24 installments. After making six payments, she was told upon inquiry, that she would be allowed a rebate of $26.66 for an immediate payoff.

   (An inspection of the records of the finance company revealed that the rate of time price differential used by the seller was 15.79 percent per annum Of the $170.40 finance charge, the finance company retained $97.20 and credited $73.20 to the seller's reserve. In computing the rebate for prepayment, the finance company deducted their entire discount of $97.20 from the then unpaid balance of $503 20 and allowed 6 percent per annum anticipation on the remainder of $406 for 16 months. Even though this calculation, shameful as it was, should have resulted in a rebate of $32.48. They offered only $26 66. We can only conclude that the reason for this gouging is so the finance company will earn its full discount regardless of the time of payoff and compel the seller to absorb any rebate made in his reserve.)

3. Mr Werner Fueg of Altadena testified that after deducting his down payment for a purchase of furniture, there was a balance of $750 for which he signed an 18 month contract containing a service charge of $176 82, with the verbal understanding this service charge would be canceled, except for a small charge of from $7 to $10, if he paid in full in 90 days. Approximately 30 days after signing the contract he sent a check for $750, and was informed by the finance company to whom the contract had been sold there was a balance of $41 for interest. No information was forthcoming to explain the basis on which the rebate was computed.
4. Mr. James Mitchner testified that a contract for motor repair work at a cash price of $165 contained a finance charge of $154 for two years. Being dissatisfied with this charge, he borrowed money elsewhere and negotiated a payoff with the finance company within the first 30 days of the contract. The finance company reduced the finance charge by $114 68, earning $40 for just a few days. (Inspection of the finance company's records, indicated that their policy for rebates is to deduct $25 from the amount of the service charge and apply the rule of 78 to the remainder. This follows the formula permitted by Section 2982 of the Civil Code for the financing of motor vehicle sales).

The pattern established by this testimony and other inspections leads to the conclusion that, particularly at the hands of fringe finance agencies, the buyer is at the mercy of the holder so far as refunds are concerned.

Assembly Bill No. 500 provides a standard formula for calculating the amount of refund for prepayment. This formula is sometimes referred to as the "Rule of 78" or the "Sum of the Digits." It is standard practice in banks and results in distributing earned service charges equitably over the period of the contract as the balances reduce when monthly payments are scheduled in substantially equal amounts. Exhibit B on the next page graphically portrays the mathematical process involved. The last column, "earned service charge" proves that a 10 percent time price differential on a $12 contract will yield $1.20 at an interest rate of 18.46 percent per annum. The percentage of the service charge to be refunded holds true by this formula regardless of the amount of the contract or the rate of time price differential. Charts which obviate manual calculations are available on the market.

Assembly Bill No. 500 provides that minimum service charges of $12 if the contract runs for eight or more months, or $10 if the contract runs for less than eight months, may be retained by the holder if the earned service charge amounts to less than these minimums. Protests by representatives of industry have been registered. These protestants claim that the minimum amount is too low, that the same amount should be allowed regardless of the length of the contract or that the minimum amount should first be deducted from the amount of the service charge and the rebate should be computed on the remainder the same as is provided for the conditional sale of automobiles. No substantive proof

EXHIBIT B

AN EXPLANATION OF THE FORMULA SET FORTH IN SECTION 1806.3 OF ASSEMBLY BILL NO. 500 FOR CALCULATING SERVICE CHARGE REFUNDS CALCULATED FOR A 12-MONTH CONTRACT

(A Separate Schedule Must Be Prepared for Each Maximum Maturity)

Number of payments scheduled ↓	Scheduled balances	Balances not yet due											Earned service charge
		11	10	9	8	7	6	5	4	3	2	1	
1	12	--	--	--	--	--	--	--	--	--	--	--	$0.1846
2	11	11	--	--	--	--	--	--	--	--	--	--	.1692
3	10	10	10	--	--	--	--	--	--	--	--	--	1538
4	9	9	9	9	--	--	--	--	--	--	--	--	.1384
5	8	8	8	8	8	--	--	--	--	--	--	--	.1230
6	7	7	7	7	7	7	--	--	--	--	--	--	.1077
7	6	6	6	6	6	6	6	--	--	--	--	--	0928
8	5	5	5	5	5	5	5	5	--	--	--	--	.0769
9	4	4	4	4	4	4	4	4	4	--	--	--	.0615
10	3	3	3	3	3	3	3	3	3	3	--	--	.0461
11	2	2	2	2	2	2	2	2	2	2	2	--	.0308
12	1	1	1	1	1	1	1	1	1	1	1	1	0154
Sum of scheduled balances	78	--	--	--	--	--	--	--	--	--	--	--	1 2002
Sum of balances not yet due	--	66	55	45	36	28	21	15	10	6	3	1	
Percentage of service charge to be refunded*	--	84.62	70.51	57 69	46.15	35 90	26.92	19 23	12 82	7 69	3 85	1.28	

* This is the ratio which the sum of the monthly time balances not yet due bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract

of such a need has been produced, and unless this need can be supported by cost figures, the committee feels the allowances are sufficient.

Unregulated charges for late payments, known as delinquency charges, open the avenue to oppressive practices. Originally, such charges were used to encourage prompt payments by the debtor and not for the purpose of creating a profit for the holder. Instances have, however, come to light which indicate these charges are used for gain at great cost to the consumer. The most glaring example is to be found in the testimony of Edward Bruna, Collection Manager for the Co-trustees of the Equitable Plan Company of Los Angeles, during the August 14, 1958, hearing held by this committee, who introduced the following chart used by this company prior to the appointment of the co-trustees.

TABLE FOR LATE CHARGES

No. of months delinquent	*No of payments delinquent*	*Late charge as percent of monthly payment*
1	1	5
2	3	15
3	6	30
4	10	50
5	15	75
6	21	105
7	28	140
8	36	180
9	45	225
10	55	275
11	66	330
12	78	390

As will be observed from the foregoing, a debtor who is six payments behind, could be charged 105 percent of the scheduled monthly payment. All subsequent payments of the same scheduled amount (or less) would apply to the late charges and the debt would never be paid off. Fortunately for the debtor, this company did their accounting with tabulating equipment which was unable to calculate more than 100 percent of the payment for late charge purposes, with the result that no higher charges were assessed. Nevertheless, the ability to assess these greater charges could exist under other accounting methods unless regulated.

Other instances were found where the amount of the late charges was computed as 1 percent of the then unpaid balances plus an arbitrary charge for collection costs. In the case of William Dowden, testified to at the same hearing, a late charge of $9.31 calculated by this method, was made on a payment of $17.99 which was 30 days delinquent.

Recognizing the virtue of delinquency charges for the purpose of encouraging prompt payments, Assembly Bill No. 500 permits a charge of not more than 5 percent of the installment in default for not less than 10 days or $5 whichever is less, provided such a charge is made only once on any installment. Recognizing further that there are certain recalcitrant debtors who will cause holders to incur above average collection expense, the bill also provides that the holder may charge the buyer with actual and reasonable costs occasioned by removal of goods from the State without written consent of the holder, or by the failure of the buyer to notify the holder of change in residence, or by

failure of the buyer to communicate with the holder within 45 days from the date of default in the contract.

The regulation of attorney's fees presented a difficult problem. Theoretically, these fees should be awarded by the courts in judgments rendered and should be paid over to the attorney and not be retained by the holder. This theory, however, explodes when, as the result of being served with the complaint, the debtor enters into an agreement with the collection agency or holder to pay the balance plus attorney's fees and costs, and the suit is dismissed As was testified to by Mr. Bruna of Equitable, these fees and costs were retained by them and not paid to their attorney who was on a retainer basis. In these cases, the services of the attorney, which are in the main routine and handled by clerks, are not commensurate with the amount of the fees and costs exacted When these cases result from a Writ of Attachment, as is often the case, the debtor acts promptly in order to protect his job and it is not difficult for the creditor or his agent to obtain the agreement referred to above.

The subjects of wage attachments and the buyer's right of defense are interwoven with the subject of attorney's fees.

In his appearance before this committee at the public hearing held August 14, 1958, Mr. George C. Chatterton, Public Defender, City of Los Angeles, had this to say about wage attachments:

> "Attachment of wages has been used in this State more as a weapon of vindictiveness than as a means of collection of debt. When a claim of exemption is filed by the debtor to secure the release of salary needed to support the debtor and his family and when the claim is allowed by the court, the debtor can look forward to further wage attachments by the collection agency or finance company. Before the debtor can secure a court order restraining further attachments, he has lost his job Employers as a rule, will not continue on the payroll an employee whose salary is attached more than twice. These continued wage garnishments can be for no other purpose than to harass the debtor because the creditor knows the claim of exemption will be granted by the courts.
>
> "Section 1811.1,* which in effect bars wage attachments, will eliminate untold misery and hardship. We see the results of abuse of this process daily. Hundreds in this city suffer as a result of its use every day. It always descends on low income families that are totally dependent on a salary. In most cases, the earnings of the head of the family are barely enough to enable a poor existence. The loss of half of the family's income spells tragedy. In many cases, the debtor has a good defense to the action, but the loss of his salary until such time as he can be heard in court, means not only the loss of a job, but also that another family has become a public charge.
>
> "A creditor with a just claim will not suffer any loss if his salary levy is deferred until judgment is rendered by a court after an opportunity to hear all the facts in a case. As a matter of fact,

* Section 1811 1 as it appeared in the original draft has since been revised and appears in its revised form in A. B. 500 as Section 1812 1.

cases of this nature could be, by proper legislation, made summary proceedings which would insure a trial on the merits within a few weeks from the time of filing of the action."

Investigations disclosed that wage attachments were filed or threatened (a) for debts for men's watches incurred by the husband when separated from his wife; (b) when goods had not been delivered; (c) when goods were not up to specification; (d) when disputes existed over charges entered in contracts after signing; and (e) other failures of the seller to perform according to agreement.

While provisions for claiming exemptions are contained in the Code of Civil Procedure, not all debtors are aware of these remedies and as a result suffer hardships through ignorance of the law.

As stated by Mr. Chatterton, in many cases, the debtor has a good defense to the action, but these defenses are rarely recognized by a holder in due course and the debtor is unable to defend the action because of inability to get an attorney to represent him, the cost involved and the loss of time from work. Most important, perhaps, is the inability to retain legal services, for attorneys understandably shy away from taking cases when they are uncertain of the outcome and are not sure they will be able to collect their fees.

The committee feels it has made some progress toward alleviating these conditions by incorporating in Assembly Bill No. 500, Sections 1804.2, 1811.1 and 1812.1.

Section 1804.2 provides that unless the assignee sends the buyer a notice at the time of acquiring the contract, no right of action or defense which the buyer may have against the seller shall be cut off by such assignment. In this notice, the assignee must set forth the major terms of the contract and inform the buyer that he must, within the succeeding 10 days, notify the assignee of the facts giving rise to the buyer's defense or claim to prevent his rights from being cut off.

Section 1811.1, in addition to giving the holder the right to collect reasonable attorney's fee and actual court costs, further provides that in any action, whether instituted by the seller, holder or buyer, attorney fees and costs will be awarded to the prevailing party This provision will encourage attorneys to accept cases when the buyer has a good defense against an action instituted by a seller or holder or when the buyer wishes to institute an action for such rights as he may have.

Section 1812.1 provides that the salary or wages of a defendant are exempt from attachment for a period of 60 days following a default of a contract.

The limitation of 60 days will prevent the holder of a spurious contract from jumping the gun immediately upon default of the first installment, and will afford the buyer a breathing spell in which to assert his claim or defense.

This section would have been more effective had it provided for the exemption from attachment entirely. Recognition, however, was given to the fact that complete exemption would have singled out one type of debt and would have created somewhat of a paradoxical situation. For example, the wages of an individual who borrows $500 which he uses to buy a refrigerator would not be exempt from attachment, whereas the wages of the individual who buys a refrigerator under a condi-

tional sales contract would be exempt from attachment. Similarly, the wages of an individual who defaults on an open charge account would not be exempt whereas the wages of the individual who defaults on a revolving installment account would be exempt.

The testimony of witnesses at our hearings lends substance to the impression that attachments of wages arising out of installment sales are in the greatest volume and are responsible for most of the abuses. The committee, therefore, feels continuing studies and investigations by the Legislature, with the revamping of the appropriate sections of the Code of Civil Procedure in mind, are both necessary and desirable in this sphere.

Most of the harsh practices in the retail installment field, as was brought out a number of times in our hearings, are indulged in by a small segment of the financing industry. Retail stores, banks and the stable finance companies are largely honest, responsible institutions in their communities, performing outstanding jobs, and making a real contribution to the welfare of our economy. It is our sincere hope that the proposed legislation will result in a more judicious administration of consumer installment debt and thereby counteract the stigma which is casting a shadow on the entire installment selling industry.

During our August hearings, and to a lesser extent in the December hearings, witnesses before the committee made many suggestions for changes in the bill then under consideration The copy of Assembly Bill No. 500 which is appended hereto, contains a great many of these suggestions. The committee incorporated what it thought was advisable and deleted provisions from the original draft which appeared to be too stringent or impractical.

PROPOSED LEGISLATION

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 500

Introduced by Messrs. Unruh, Crown, McCollister, Munnell, Pattee, and Rumford, comprising the Subcommittee on Lending and Fiscal Agencies of the Assembly Interim Committee on Finance and Insurand, and Messrs. Bruce F. Allen, Don A. Allen, Bane, Beaver, Bee, Britschgi, George E. Brown, Ralph M. Brown, Burton, Busterud, Cameron, Crawford, Cunningham, Cusanovich, Mrs. Davis, Messrs. DeLotto, Elliott, Francis, Gaffney, Garrigus, Samuel R. Geddes, Grant, Hawkins, Holmes, Kennick, Kilpatrick, Lunardi, MacBride, Marks, Meyers, Miller, Mulford, Nisbet, O'Connell, Petris, Porter, Rees, Sumner, Waldie, Williamson, George A. Willson, Charles H. Wilson, and Z'berg, and also at the request of the Governor

January 20, 1959

REFERRED TO COMMITTEE ON FINANCE AND INSURANCE

An act to add Title 2 (commencing with Section 1801) to Part 4, Division 3, of the Civil Code, relating to credit and installment sales of goods and services.

The people of the State of California do enact as follows:

SECTION 1. Title 2 is added to Part 4, Division 3, of the Civil Code, to read:

TITLE 2. CREDIT SALES

CHAPTER 1. RETAIL INSTALLMENT SALES

Article 1. General Provisions

1801. This chapter may be cited as the "Retail Installment Sales Law."

LEGISLATIVE COUNSEL'S DIGEST

A. B. 500 as introduced, Unruh, Crown, McCollister, Munnell, Pattee and Rumford, comprising the Subcommittee on Lending and Fiscal Agencies of the Assembly Interim Committee on Finance and Insurance, and also at the request of the Governor (Fin. & Ins.). Retail installment sales

Adds Title 2 (commencing with Sec 1801) to Part 4, Div 3, Civ C

Effects a comprehensive regulation of all phases of the business of credit selling

of tangible personal property bought primarily for personal, family or household purposes, including certificates or coupons exchangeable for such property, and including property which is to be affixed to realty.

Requires retail installment contracts to be in writing and prescribes particular provisions which must appear in such contracts including specific data with respect to price, payments, fees and charges, and specifies provisions prohibited in such contracts

Regulates retail installment charge account practices, prescribing written statements which must be presented to the buyer, material which must appear in advertising, and related matters

Establishes specific limitations on service charges which can be made in connection with retail installment contracts and installment charge accounts.

Regulates payment practices, assignment of contracts by sellers, refinancing and consolidation of credit sale contracts, repossession and resale practices, and related matters, and specifies that the salary or wages of a buyer shall not be subject to attachment to pay claims arising on such contracts for period of 60 days after default

Specifies that violation of the provisions is a misdemeanor, and limits the power of a contract holder to recover time-price differentials and other charges in the cases of knowing failure to comply with the provisions.

1801.1 Any waiver of the buyer of the provisions of this chapter shall be deemed contrary to public policy and shall be unenforceable and void.

1801.2. If any provision of this chapter or the application thereof to any person or circumstances is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

1801.3. Except as provided in Section 1805.1, the provisions of this chapter shall not apply to any retail installment sale which is made for a cash sale price of fifty dollars ($50) or less where no title, lien or other security interest is retained or taken by the seller. This section shall not apply to sales made pursuant to the provisions of Article 10 of this chapter.[1]

Article 2. Definitions

1802. Unless the context or subject matter otherwise requires, the definitions given in this article govern the construction of this chapter.

1802.1. "Goods" means tangible chattels personal used or bought for use primarily for personal, family or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include boats, aircraft, or their auxiliary equipment, nor any vehicle required to be registered under the Vehicle Code, nor any goods sold with such a vehicle if

[1] The intent of this section is to exempt all single transactions having a cash sale price (exclusive of sales taxes) of $50 or less Each one of a number of transactions which has a cash sale price of $50 or less is intended as a single transaction regardless of whether the aggregate exceeds $50, and regardless of the time of purchase This section permits retail sellers whose average unsecured sale is less than $50, who would find it impractical to incur the cost of mechanization required to install a revolving credit system, to continue their practices of adding a time price differential to the cash price on each sales slip which the customer receives and to manually enter these charges in their ledger and the customer's passbook, without being subjected to the computations required by Article 8, or being required to enter into a separate contract for each transaction The limitation as to service charge is preserved.

1 sold under a contract complying with Section 2982 of the
2 Civil Code.
3 1802.2. "Services" means work, labor and services, includ-
4 ing services furnished in connection with the sale or repair of
5 goods as defined in Section 1802.1 or furnished in connection
6 with the repair of motor vehicles or in connection with the
7 improvement of real property for other than a commercial or
8 business use, but does not include the services of physicians
9 or dentists.[2]
10 1802.3 "Retail seller" or "seller" means a person engaged
11 in the business of selling goods or furnishing services to retail
12 buyers.
13 1802.4 "Retail buyer" or "buyer" means a person who
14 buys goods or obtains services from a retail seller in a retail
15 installment sale and not principally for the purpose of resale.
16 1802.5 "Retail installment sale" or "sale" means the sale
17 of goods or the furnishing of services by a retail seller to a
18 retail buyer for a time sale price payable in installments but
19 not one as to which any insurance or guarantee by the Federal
20 Housing Commissioner or under Title 3 of the act of Congress
21 entitled "Servicemen's Readjustment Act of 1944" or by the
22 Federal Government or the State of California, or any agency
23 of either, is intended to be and is ultimately obtained.[3]
24 1802.6 "Retail installment contract" or "contract" means
25 any contract for a retail installment sales between a buyer and
26 seller, entered into or performed in this State, which provides
27 for repayment in installments, whether or not such contract
28 contains a title retention provision, and in which a time price
29 differential is computed upon and added to the unpaid balance
30 at the time of sale. When taken or given in connection with
31 a retail installment sale, the term includes but is not limited
32 to a chattel mortgage, a conditional sales contract and a con-
33 tract for the bailment or leasing of goods by which the bailee
34 or lessee contracts to pay as compensation for their use a sum
35 substantially equivalent to or in excess of their value and by
36 which it is agreed that the bailee or lessee is bound to become,
37 or as the option of becoming, the owner of the goods upon
38 full compliance with the terms of the contract.[4]
39 1802.7 "Retail installment account" or "installment ac-
40 count" or "revolving account" means an account established
41 by an agreement entered into in this State, pursuant to which
42 the buyer promises to pay, in installments, to a retail seller,
43 his outstanding balance incurred in retail installment sales,
44 whether or not a security interest in the goods sold is retained
45 by the seller, and which provides for a service charge which is

[2] Services for physicians and dentists are exempted as these professions are subject to disciplinary procedure for nonethical practices.
[3] Certain goods and services are sold for the same price on installments as they would be sold for cash. It is the intent of this section to exclude such transactions from the provisions of this chapter.
[4] See footnote 3.

1 expressed as a percent of the periodic balances to accrue there-
2 after providing such charge is not capitalized or stated as a
3 dollar amount in such agreement.[5]
4 1802.8 "Cash sale price" means the cash sale price stated
5 in a retail installment contract for which the seller would sell
6 or furnish to the buyer and the buyer would buy or obtain
7 from the seller the goods or services which are the subject
8 matter of a retail installment contract if the sale were a sale
9 for cash instead of a retail installment sale. The cash sale price
10 may include any taxes and cash sale prices for accessories and
11 services, if any, included in a retail installment sale.
12 1802.9. "Time sale price" means the total of the cash sale
13 price of the goods or services and the amounts, if any, included
14 for insurance, official fees and service charge.[6]
15 1802 10. "Time price differential" or "service charge"
16 means the amount however denominated or expressed which
17 the retail buyer contracts to pay or pays for the privilege of
18 purchasing goods or services to be paid for by the buyer in
19 installments; it does not include the amounts, if any, charged
20 for insurance premiums, delinquency charges, attorney's fees,
21 court costs, collection expenses or official fees. Wherever either
22 of such terms is required to be used under the provisions of
23 this chapter the other may be used interchangeably.[7]
24 1802.11. "Unpaid balance" means the cash sale price of
25 the goods or services which are the subject matter of the retail
26 installment sale, plus the amounts, if any, included in a retail
27 installment sale for insurance and official fees, minus the
28 amount of the buyer's downpayment in money or goods.
29 1802.12. "Time balance" means the total of the unpaid
30 balance and the amount of the service charge, if any
31 1802.13. "Holder" means the retail seller who acquires a
32 retail installment contract or installment account executed,
33 incurred or entered into by a retail buyer, or if the contract
34 or installment account is purchased by a financing agency or
35 other assignee, the financing agency or other assignee.
36 1802.14. "Official fees" means the fees required by law
37 and actually to be paid to the appropriate public officer to
38 perfect a lien or other security interest, on or in goods, re-
39 tained or taken by a seller under a retail installment contract
40 or installment account.
41 1802.15. "Person" means an individual, partnership, cor-
42 poration, association or other group, however organized.

[5] The provision "whether or not a security interest in the goods sold is retained by the seller" is for the purpose of enabling retail sellers to use this type of account for secured goods sales instead of being restricted to the provisions relating to retail installment contracts The advantages are that the service charge is collected by the seller only as earned, repeated visits by the customer to the credit office of the seller when additional purchases are made are eliminated and rebate computations at the time of add-on purchases or full payment are unnecessary.

[6] See footnotes 3 and 10

[7] The intent of this definition is to classify financing charges as time price differentials regardless of whether such charges are precomputed at the time of sale or are computed on the outstanding balances from month to month, and thereby divorce these charges from any definition of interest.

1802.16. "Financing agency" means a person engaged in this State in whole or in part in the business of purchasing retail installment contracts, or installment accounts from one or more retail sellers. The term includes but is not limited to a bank, trust company, private banker, or investment company, if so engaged The term does not include the pledgee of or the holder of a security interest in an aggregate number of such contracts or installment accounts to secure a bona fide loan thereon.

Article 3. Provisions of Retail Installment Contracts

1803.1. A retail installment contract shall be dated and in writing; the printed portion thereof shall be in at least eight-point type.

1803.2. Except as provided in Section 1803.3, every retail installment contract shall be contained in a single document which shall contain:[8]

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services.

(b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Conditional Sale Contract" or "Lien Contract," as the case may be, shall appear in at least 10-point bold type where a security interest in the goods is retained or a lien on other goods or realty is obtained by the seller as security for the goods or services purchased Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Retail Installment Contract" shall appear in at least 10-point bold type where security is not obtained by the seller for the goods or services purchased. The requirements of this subdivision shall be in addition to any applicable designation required of a chattel mortgage by Civil Code Sections 2957 and 2957.

(c) A notice in at least eight-point bold type reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge."

1803 3. Except as provided in Article 8 of this chapter, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be

[8] The requirement that the contract be contained in a single document is intended to prevent the execution of any note or series of notes which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller.

described in detail sufficient to identify them in a separate writing.[9]

(b) The cash sale price of the goods, services and accessories which are the subject matter of the retail installment sale.

(c) The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c)

(e) The amount, if any, included for insurance, specifying the coverages and the cost of each type of coverage.

(f) The amount, if any, of official fees

(g) The unpaid balance, which is the sum of items (d), (e), and (f).

(h) The amount of the service charge, if any.

(i) The time balance, which is the sum of items (g) and (h), payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

(j) The time sale price.[10]

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

1803.4 The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed.

1803.5 If the cost of any insurance is included in the contract and a separate charge is made to the buyer for such insurance:

(a) The contract shall state whether the insurance is to be procured by the buyer or the seller.

(b) The amount, included for such insurance, shall not exceed the premiums chargeable in accordance with rate fixed for such insurance by the insurer

(c) If the insurance is to be procured by the seller or holder, he shall, within 45 days after delivery of the goods or furnishing of the services under the contract, deliver, mail or cause to be mailed to the buyer, at his address as specified in the contract, a notice thereof or a copy of the policy or policies of insurance or a certificate or certificates of the insurance so procured

(d) The provisions of Insurance Code Section 1731 shall apply to any violation of this section.

1803.6. A contract may provide for the payment by the buyer of a delinquency charge on each installment in default for a period of not less than 10 days in an amount not in

[9] In connection with "services" this provision enables, especially as applied to repairs and improvements to real property, the specifications and blueprints to be set forth in a separate document, and in connection with "goods" permits, when space is not available in the contract form, condensing groups of articles into one generic term (such as bedroom furniture; dining room set, etc.) and itemizing the individual articles separately by means of descriptive sales tickets or exhibits

[10] This item is required in order to disclose to the buyer the total cost of the goods or services he is purchasing.

excess of 5 percent of such installment or five dollars ($5), whichever is less, but a minimum charge of one dollars ($1) may be made Only one such delinquency charge may be collected on any such installment regardless of the period during which it remains in default The contract may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the State without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the holder for a period of 45 days after any default in making payments due under the contract.

1803.7 The seller shall deliver to the buyer, or mail to him, at his address shown on the contract, a legible copy thereof completed in accordance with the provisions of this chapter Until the seller does so, the buyer shall be obligated to pay only the cash sale price. Any acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least 10-point bold type and, if contained in the contract shall also appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgment, conforming to the requirements of this section of delivery of a copy of a contract shall be a conclusive presumption of such delivery and of compliance with this section and Section 1803 4, in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

1803.8 Retail installment sales negotiated and entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, may be made as hereinafter provided. All of the provisions of this chapter shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in Section 1803 7, and if, when the proposed retail installment sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect In lieu of the copy of the contract provided for in Section 1803 7 the seller shall, within 15 days from the date of shipment of goods, furnish to the buyer a written statement of the items inserted in such blank spaces.

Article 4 Restrictions on Retail Installment Contracts

1804 1. No contract or obligation shall contain any provision by which:

(a) The buyer agrees not to assert against a seller or an assignee a claim or defense arising out of the sale.

(b) In the absence of the buyer's default in the performance of any of his obligations, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the amount owing thereunder.

(c) A power of attorney is given to confess judgment in this State, or an assignment of wages is given; provided, that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument, executed pursuant to Section 300 of the Labor Code.

(d) The seller or holder of the contract or other person acting on his behalf is given authority to enter upon the buyer's premises unlawfully or to commit any breach of the peace in the repossession of goods.

(e) The buyer waives any right of action against the seller or holder of the contract or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of goods.

(f) The buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of goods.

(g) The buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or any separate instrument executed in connection therewith.

1804.2. No right of action or defense arising out of a retail installment sale which the buyer has against the seller shall be cut off by assignment of the contract to any third party who acquires the contract in good faith and for value unless the assignee gives notice of the assignment to the buyer as provided in this section and within 15 days of the mailing of such notice receives no written notice of the facts giving rise to the claim or defense of the buyer. A notice of assignment shall be in writing addressed to the buyer at the address shown on the contract and shall identify the contract and inform the buyer that he must, within 10 days of the date of mailing of such notice, notify the assignee in writing of any facts giving rise to a claim or defense which he may have. The notice of assignment shall state the name of the seller and buyer, a description of the goods and services, the time balance and the number and amounts of the installments [11]

1804.3. No contract shall provide for a lien on any goods theretofore fully paid for or which have not been sold by the seller.[12]

1804.4. Any provision in a contract which is prohibited by this chapter shall be void but shall not otherwise affect the validity of the contract.

[11] This provision gives the assignee an opportunity to protect himself against buying contracts from a seller who has misrepresented the transaction to the buyer, and gives the buyer an opportunity to rescind the transaction or to register his claim or defense. The reason for requiring the buyer to give his notice within 10 days but allowing 15 days before such notice is invalidated is to allow for the time involved in mail deliveries.

[12] This provision is intended to avoid any conflict with Article 8 and to restrict the security in the contract to a security interest in the goods which are the subject matter of the contract.

Article 5 Service Charge Limitation

1805.1. A seller may, in a retail installment contract, contract for and, if so contracted for, the holder thereof may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including any fraction in excess of more than 15 days as one month, elapsing between the date of such contract and the due date of the last installment:[13]

(a) On so much of the unpaid balance as does not exceed one thousand dollars ($1,000), five-sixths of 1 percent.

(b) If the unpaid balance exceeds one thousand dollars ($1,000), on so much of the unpaid balance as exceeds one thousand dollars ($1,000), two-thirds of 1 percent.

(c) If the service charge so computed is less than twelve dollars ($12), twelve dollars ($12), but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10).

1805.2 Contracts may be payable in successive monthly, semimonthly or weekly installments substantially equal in amount.

1805.3. When a retail installment contract provides for unequal or irregular installments, the service charge shall be at the effective rate provided for in Section 1805.1, having due regard for the schedule of installments.

1805.4 The service charge shall be inclusive of all charges incident to investigating and making the contract and for the extension of the credit provided for in the contract, and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as otherwise provided in this chapter.

1805.5. No seller shall induce or permit any buyer to split up or divide any sales transaction for the purpose of contracting for or receiving a higher rate of time price differential than would otherwise be permitted by this article or to obtain the exemption permitted by Section 1801.3 of this chapter.

Article 6. Payments

1806.1. Unless the buyer has notice of actual or intended assignment of a contract or installment account, payment thereunder made by the buyer to the last known holder of such contract or installment account, shall to the extent of the payment, discharge the buyer's obligation.

1806.2. At any time after its execution, but not later than one year after the last payment thereunder, the holder of a contract shall, upon written request of the buyer made in good faith, promptly give or forward to the buyer a detailed written statement which will state with accuracy the total amount, if any, unpaid thereunder. Such a statement shall

[13] This definition clarifies what is mean by "month" and is considered to be less subject to misrepresentation than per annum rates.

be supplied by the holder once each year without charge; if any additional statement is requested by the buyer, the holder shall supply such statement to the buyer at a charge not exceeding one dollar ($1) for each additional statement supplied to the buyer. The provisions of this section shall apply only to those transactions wherein, instead of periodic statements of account, the buyer is provided with a passbook or payment book in which all payments, credits and charges are entered.[14]

1806.3. Notwithstanding the provisions of any contract to the contrary, any buyer may pay the contract in full at any time before maturity and in so paying it shall receive a refund credit thereon for such anticipation. The amount of any such refund credit shall represent at least as great a proportion of the service charge or, if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances not yet due bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the credit for anticipation of payment is less than one dollar ($1) no refund need be made. Where the earned service charge amounts to less than the minimum service charge, there may be retained an amount equal to the minimum service charge applicable.[15]

1806.4. After the payment of all sums for which the buyer is obligated under a contract and upon demand made by the buyer, the holder shall deliver, or mail to the buyer at his last known address, such one or more good and sufficient instruments as may be necessary to acknowledge payment in full and to release all security in the goods under such contract.

Article 7 Refinancing and Consolidation

1807.1. The holder of a retail installment contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto. The holder may charge and contract for the payment of an extension or deferral charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the

[14] Holders who operate a passbook system have been known to refuse or ignore requests for an accounting, particularly when delinquency and collection charges have been made to the buyer's account.

[15] See page 20 and Exhibit "B" of this report for an explanation of this formula. It is not intended that no other formula may be used, so long as the amount of refund is as great as would result from the use of this formula. This wording is less subject to misrepresentation than is the wording contained in Section 2982(gd) of the Civil Code.

1 date when such extended or deferred installment or install-
2 ments, or part thereof, would have been payable in the absence
3 of such extension or deferral, to the date when such install-
4 ment or installments, or part thereof, are made payable under
5 the agreement of extension or deferment; except that a mini-
6 mum charge of one dollar ($1) for the period of extension or
7 deferral may be made in any case where the extension or de-
8 ferral charge, when computed at such rate, amounts to less
9 than one dollar ($1) Such agreement may also provide for the
10 payment by the buyer of the additional cost to the holder of the
11 contract of premiums for continuing in force, until the end of
12 such period of extension or deferral, any insurance coverages
13 provided for in the contract, subject to the provisions of
14 Section 1803.5.
15 1807 2. The holder of a retail installment contract or
16 contracts may, upon agreement in writing with the buyer,
17 refinance the payment of the unpaid time balance or balances
18 of the contract or contracts by providing for a new schedule of
19 installment payments. The holder may charge and contract
20 for the payment of a refinance charge by the buyer and collect
21 and receive the same, but such refinance charge (1) shall be
22 based upon the amount refinanced, plus any additional cost of
23 insurance and of official fees incident to such refinancing, after
24 the deduction of a refund credit in an amount equal to that to
25 which the buyer would have been entitled under Section 1806.3
26 if he had prepaid in full his obligations under the contract or
27 contracts, but in computing such refund credit there shall not
28 be allowed the minimum earned service charge as authorized by
29 such section, and (2) may not exceed the rate of service charge
30 provided under Article 5 of this chapter. Such agreement for
31 refinancing may also provide for the payment by the buyer of
32 the additional cost to the holder of the contract or contracts
33 of premiums for continuing in force, until the maturity of the
34 contract or contracts as refinanced, any insurance coverages
35 provided for therein, subject to the provisions of Section
36 1803 5. The refinancing agreement shall set forth the amount
37 of the unpaid time balance or balances to be refinanced, the
38 amount of any refund credit, the amount to be refinanced after
39 the deduction of the refund credit, the amount of the service
40 charge under the refinancing agreement, any additional cost of
41 insurance and of official fees to the buyer, the new unpaid time
42 balance and the new schedule of installment payments. Where
43 there is a consolidation of two or more contracts then the
44 provisions of Section 1808 1 and 1808.2 shall apply.
45 1807.3. In the event a contract provides for the payment of
46 any installment which is more than double the amount of the
47 average of the preceding installments the buyer, upon default
48 of this installment, shall be given an absolute right to obtain a
49 new payment schedule. Unless agreed to by the buyer, the

periodic payments under the new schedule shall not be substantially greater than the average of the preceding installments.[16]

Article 8. Add-on Sales

1808.1. A retail installment contract which otherwise conforms to the requirements of this chapter, may contain the provision that the seller may at his option add subsequent purchases made by the buyer to the contract, and that the total price of the goods or services covered by the contract shall be increased by the price of such additional goods or services, and that all service charges and installment payments may at the seller's option be increased proportionately, and that all terms and conditions of the contract shall apply equally to such additional goods or services. The contract may also provide that the goods purchased under the previous contract or contracts shall be security for the goods purchased under the subsequent contract but only until such time as the time sale price under the previous contract or contracts is fully paid.

1808 2. When a subsequent purchase is made, the entire amount of all payments made previous thereto shall be deemed to have been applied toward the payment of the previous time sale price or time sale prices. Each payment thereafter received shall be deemed to be allocated to all of the various time sale prices in the same proportion or ratio as the original cash sale prices of the various purchases bear to one another; where the amount of each installment payment is increased in connection with the subsequent purchase, the subsequent payments (at the seller's election) may be deemed to be allocated as follows: an amount equal to the original rate, to the previous time sale price, and an amount equal to the increase, to the subsequent time sale price. However, the amount of any initial or down payment on the subsequent purchase shall be deemed to be allocated in its entirety to such purchase.

1808.3. When a subsequent purchase is made the seller shall deliver to the buyer, prior to the due date of the first installment, a memorandum which shall set forth the following: [17]

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods and services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail in a separate writing.

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[16] This provision is intended to prevent a buyer from being disposessed of goods purchased under a security interest contract or to be declared in default, for failure to meet a "balloon" payment in either a secured or unsecured contract. Such balloon payment contracts are very often arranged on the urgency of the seller in order to make a sale at reduced initial payments regardless of the potential ability of the buyer to meet the larger final payment.

[17] Inasmuch as confidence between a buyer and seller is normally established prior to the time of an add-on purchase, an entirely new agreement is not essential Very often add-on purchases are made from salesmen who do not have available all the details necessary to make the required computations, and who might be incapable of making these computations with accuracy. Nothing in this article is intended, however, to prevent a seller from preparing a new contract for the customer's signature if he so desires, provided all the disclosures required by this section are embodied therein.

(b) The cash sale price of the goods, services and accessories which are the subject matter of the new retail installment sale.

(c) The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c).

(e) The amount, if any, included for insurance, specifying the coverages and the cost of each type of coverage

(f) The amount, if any, of official fees.

(g) The unpaid balance, which is the sum of items (d), (e) and (f).

(h) The unpaid time balance of the prior contract or contracts

(i) The new unpaid balance, which is the sum of items (g) and (h).

(j) The amount of the service charge computed in conformity with Section 1808 5.

(k) The consolidated time balance, which is the sum of items (i) and (j), payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

This memorandum shall contain the statement that the seller is adding the subsequent purchase to the buyer's existing contract in accordance with the provisions thereof

1808 4 Until the seller delivers to the buyer the memorandum as provided in Section 1808 3 the buyer shall be obligated to pay only the cash sale price of the subsequent purchase.

1808.5. Subject to the other provisions of Article 5, the service charge to be included in a consolidated time balance shall be determined by applying the service charge at the applicable rate specified in that article to either:

(a) The total of the unpaid balance of the subsequent contract and the unpaid balance of any previous contract included in the consolidated total determined by deducting from the then unpaid time balance thereof any then unearned service charge in an amount not less than the refund credit for anticipation provided for in Article 6 of this chapter (computed, however, without the allowance of any minimum earned service charge), for the period from the date thereof to and including the date when the final installment of such consolidated total is payable; or

(b) The principal balance of the subsequent contract for the period from the date thereof to and including the date when the final installment of such consolidated total is payable and, if the due date of the final installment of such consolidated total is later than the due date of the final installment

of any previous contract included in the consolidated total, on the time balance then unpaid on such previous contract from the date when the final installment thereof was payable to the date when the final installment of such consolidated total is payable.[18]

1808.6. The minimum service charge as provided in subsection (c) of Section 1805.1 may be used but once in any series of add-on transactions.

Article 9. Terms of Purchase by Financing Agency

1809.1. Notwithstanding any contrary provision of law a financing agency may purchase a retail installment contract or installment account from a seller on such terms and conditions and for such price as may be mutually agreed upon. No filing of the assignment, no notice to the buyer of the assignment, and no requirement that the seller be deprived of dominion over payments upon the contract or installment account or over the goods if repossessed by the seller, shall be necessary to the validity of a written assignment of a contract or installment account as against creditors, subsequent purchasers, pledgees, mortgagees or encumbrancers of the seller.

Article 10 Retail Installment Accounts

1810.1. A retail installment account may be established by the seller upon the request of a buyer or prospective buyer. The statement that "service charges not in excess of those permitted by law will be charged on the outstanding balances from month to month," shall be printed in type no smaller than eight point in every application form used by the seller and shall be stated to the applicant when such installment accounts are negotiated by telephone.

1810.2. At the time a seller accepts the credit of the buyer and establishes a retail installment account for his use, the seller shall confirm this fact to the buyer in writing. Such confirmation shall contain a clear and understandable statement of the rates of service charge, without regard to the variations allowed in Section 1810.4, which will be collected from the buyer, but may contain the clause that such rates are subject to change if permitted by law. This confirmation shall also contain a legend that the buyer may at any time pay his entire balance.[19]

[18] The two optional methods are provided so that the present policies and methods of sellers will not need to be overhauled. Either method produces substantially the same monetary result.

[19] The clause "without regard to the variations allowed in Section 1810.4" has a sound purpose. The ethics of the sellers who use this type of account is of the highest degree, and they do not want their customers to overextend themselves. Therefore, they would not like to put into their notices or signs anything which would encourage customers to go into debt for large amounts as might be the case if they indicated the rates of service charge would decrease on balances over $1,000 or if they published charts containing amounts greater than $300 or some such low figure.

(a) The confirmation shall be in type no smaller than elite typewriter characters.

(b) If no copy of the confirmation is retained by the seller, a notation in his permanent record showing that such confirmation was mailed, and the date of the mailing, shall serve as prima facie evidence of such mailing.

1810 3. Each retail seller, before he can avail himself of the service charges permitted by this article, shall display prominently in his main place of business and in each branch thereof, a statement outlining the service charge rates which will conform to Section 1810.2 of this article.

1810 4 Subject to the other provisions of this article the seller or holder of a retail installment account may charge, receive and collect the service charge authorized by this chapter. The service charge shall not exceed the following rates computed on the outstanding balances from month to month·

(a) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1½ percent per month.

(b) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent per month on the excess over one thousand dollars ($1,000) of the outstanding balance.[20]

(c) If the service charge so computed is less than one dollar ($1) for any month, one dollar ($1)

(d) The service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential

1810.5. The seller or holder of a retail installment account shall promptly provide the buyer with a statement as of the end of each monthly period (which need not be a calendar month) setting forth the following:

(a) The balance due to the seller or holder from the buyer at the beginning of the monthly period

(b) The dollar amount of each purchase by the buyer during the monthly period and, (unless a sales slip or memorandum of each purchase has previously been furnished the buyer or is attached to the statement) the purchase or posting date, a brief description and the cash price of each purchase.

(c) The payments made by the buyer to the seller or holder and any other credits to the buyer during the monthly period

(d) The amount of the service charge

(e) The total balance in the account at the end of the monthly period.

(f) A legend to the effect that the buyer may at any time pay his total balance.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

[20] See footnote 19.

1810.6 The service charge shall include all charges incident to investigating and making the retail installment account. No fee, expense, delinquency, collection or other charge whatsoever shall be taken, received, reserved or contracted by the seller or holder of a retail installment account except as provided in this section A seller may, however, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer provide for the payment of attorney's fees and costs in conformity with Article 11 of this chapter.[21]

1810.7 If the cost of any insurance is to be separately charged to the buyer, there shall be an agreement to this effect, signed by both the buyer and the seller, a copy of which shall be given or furnished to the buyer Such agreement shall state whether the insurance is to be procured by the buyer or the seller or holder. If the insurance is to be procured by the seller or holder, the seller or holder shall comply with the provisions of Section 1803.5.

1810 8 Nothing in this article prohibits the execution of an agreement between a buyer and seller whereby the seller retains a security interest in goods sold to the buyer until full payment therefor has been made. The provisions of Section 1808.2 are applicable to goods sold under such an agreement.[22]

1810.9 No retail installment account shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller.[23]

1810 10 The provisions of Sections 1806.1 and 1806.4 shall be applicable to retail installment accounts.

1810 11 Nothing in this article shall be construed to affect the validity of any agreement or contractual relationship entered into prior to October 1, 1959, except that any rate in excess of that allowed by this article shall be reduced to the permissible rate on or before October 1, 1959.

Article 11. Attorney's Fees and Court Costs

1811 1. A contract or installment account may provide for the payment of reasonable attorney's fees and actual court costs if it is referred to an attorney for suit. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a contract or installment account subject to the provisions of this chapter regardless of whether such action is instituted by the seller, holder or buyer. Where the defendant alleges in his answer that he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so ten-

[21] Nothing in this provision is intended to prevent this agreement being contained in the seller's "application for credit" form

[22] Same as footnote 21

[23] Inasmuch as no requirement that the agreement for this type of account be contained in a single document is contained in this article, this section is necessary.

dered, and the allegation is found to be true, then the defendant is deemed to be the prevailing party within the meaning of this article.[24]

Article 12. Attachment

1812.1. Notwithstanding any other provision of law, the salary or wages of a defendant are exempt from attachment for a period of 60 days from the date of default of the contract or installment account for any claim arising out of a contract or installment account subject to the provisions of this chapter.

Article 12.1 Repossession and Resale

1812.2. In the event of any default by the buyer in the performance of his obligations under a contract or installment account, the holder, pursuant to any rights granted therein, may proceed to recover judgment for the balance due without retaking the goods, or he may retake the goods and proceed as hereinafter provided. If he retakes the goods, he shall give notice to the buyer of his intention to sell the goods or give notice to the buyer of his intention to retain the goods in satisfaction of the balance due. In either case the buyer shall have an absolute right to redeem the goods within 10 days after the notice is given by paying or tendering the amount owing under the contract and any expense of taking, keeping and storage. If the holder gives notice of election to sell the goods the buyer shall also have the absolute right to redeem the goods at any time before sale by paying or tendering the amounts specified above and also any expense reasonably incurred by the seller or holder in good faith in repairing, reconditioning the goods or preparing them for sale. If the holder gives notice of his intention to retain the goods in satisfaction of the indebtedness he shall be deemed to have done so at the end of the 10-day period if the goods are not redeemed. Upon written demand of the buyer, the holder shall furnish the buyer a written statement of the sum due under the contract and the expenses provided for in this section. For failure to render such a statement within a reasonable time, the holder shall forfeit to the buyer ten dollars ($10) and also be liable to him for all damages suffered because of such failure.

1812.3. The notice provided for in Section 1812.2 shall be given to the buyer and any other person liable by causing it to be delivered personally or to be deposited in the United States mail addressed to the buyer or to such other person at his last known address and shall advise the buyer or such other person of his right to redeem as provided for in Section 1812.2. If the holder determines to sell the goods at public sale he shall give notice of the time and place of sale at least 10 days before the

[24] Explained under "General Comments and Observations."

date of sale by delivering a copy of the notice personally to the buyer or other person liable or depositing the same in the United States mail addressed to the buyer or such other person at his last known address, and by publication at least once in a newspaper of general circulation in the county in which the sale is to be held.

1812.4. The proceeds of a resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of any expenses of retaking, including reasonable attorney's fees actually incurred, and of any expenses of keeping, storing, repairing, reconditioning or preparing the goods for sale to which the holder may be entitled, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

1812.5. If the proceeds of the sale are not sufficient to cover items (1), (2) and (3) of Section 1812.4, the holder may recover the deficiency from the buyer or from anyone who has succeeded to the obligation of the buyer. If the goods were sold at private sale the buyer may have the reasonable value of the goods at the time of resale determined in any action brought by the holder to recover the deficiency, the resale price being prima facie but not conclusive evidence of such reasonable value, and in such case the reasonable value as determined or the resale price, whichever shall be higher, shall be credited to the buyer on account of his indebtedness.

If the holder does not sell the goods within a reasonable time after the goods are retaken, he shall be deemed to have waived any claim for a deficiency, but any sale made within three months of the retaking shall be deemed to have been made within a reasonable time.[25]

If the buyer has paid an amount equal to 80 percent or more of the total time sale price at the time of his default under the contract or installment account, then the holder may elect either (a) to repossess the goods and release the buyer from further obligation under the contract or installment account, or (b) be limited to an action to recover the balance of the indebtedness.[26]

Article 12.2. Penalties

1812.6. Any person who shall willfully violate any provisions of this chapter shall be guilty of a misdemeanor.

1812.7. In case of failure by any person to comply with the provisions of this chapter, such person or any person who acquires a contract or installment account with knowledge of such noncompliance is barred from recovery of any time price differential or service charge or of any delinquency, collection, extension, deferral or refinance charge imposed in connection with such contract or installment account and the buyer shall

[25] The provision "* * * but any sale made within three months of the retaking shall be deemed to have been made within a reasonable time" is to permit the holding of seasonable goods for a favorable market.

[26] Suggestions have been made that the security interest test should be reduced from 80 percent to 60 percent. Should the 80 percent security test be ineffective in operation the Legislature should give consideration to a reduction.

1 have the right to recover from such person an amount equal to
2 any of such charges paid by the buyer.
3 1812.8. Notwithstanding the provisions of this article, any
4 failure to comply with any provision of this chapter may be
5 corrected within 10 days after the holder notices such failure
6 or is notified thereof in writing by the buyer and, if so cor-
7 rected, neither the seller nor the holder shall be subject to any
8 penalty under this article.
9 1812.9. Section 1812.8 shall not apply to any person who
10 willfully violates any provision of this chapter in connection
11 with the imposition, computation or disclosures of or relating
12 to a time price differential or service charge on a consolidated
13 total of two or more contracts under the provisions of Article 8
14 of this chapter, and the buyer may recover from such person
15 an amount equal to three times the total of the time price dif-
16 ferentials or service charges and any delinquency, collection,
17 extension, deferral or refinance charges imposed, contracted
18 for or received on all contracts included in the consolidated
19 total and the seller shall be barred from the recovery of any
20 such charges.[27]
21 SEC. 2. This act shall become operative October 1, 1959.

[27] This more drastic penalty is imposed because the seller is given the opportunity under Section 1808 3 to check and doublecheck his computations

APPENDICES

SUMMARY OF PUBLIC HEARING ON RETAIL INSTALLMENT SALES OF CONSUMER GOODS HELD AUGUST 14 AND 15, 1958

Legal Aid Foundation of Los Angeles, Mr. Edward F Franke, Chief Counsel
Better Business Bureau of Los Angeles, Mr. Robert Sample, Vice President
Public Defender, City of Los Angeles, Mr. George Chatterton
Office of the Police Commissioner, Los Angeles, Lieutenant Mark V. Smith
Staff Consultant—Arthur E. Kaiser
Staff Counsel—Marvin L. Holen
Committee Secretary—Marion Cerrell

Others:

The Equitable Plan Company, Los Angles: Edward Bruna
Home Owners Investment Company: William Mann, Norman Mann
Richard T. Harvey, San Diego
Mrs Jean Land, Los Angeles
Mr Werner Fueg, Altadena
Mrs J. J DiLuccia, Inglewood
Mr. James Michener, Los Angeles
Mr. Genaro Gutierrez, Los Angeles
Mrs. Annie Laurie Nelson, Los Angeles
Mr. Bernard Dahl, Los Angeles
Mr. William J. Dowden, Canoga Park
Mr Arthur G Werner, Rosemead
Mr. Lawrence Hansen, Jr., Torrance
Mr. William Caldwell, Los Angeles

The chairman called the hearing to order at 9.30 a.m. on August 14, 1958, in Room 110 in the State Building in Los Angeles. The hearing was continued on August 15th at the same location. Members present were: Messrs William Byron Rumford, H. W. Kelly, Howard J. Thelin, Richard H. McCollister, John A. O'Connell, Robert W. Crown and Jesse M. Unruh, Chairman. Mr. Augustus F Hawkins joined the committee during the afternoon of August 14th

In his opening statement, Chairman Unruh stated that the purpose of the hearing was to examine into reported abuses in the field of installment selling and to determine if corrective legislation is necessary. He emphasized that to the best of his knowledge and belief, most retail sellers were adhering to legitimate and honorable methods in conducting their installment sales programs but that the minority apparently was responsible for the abuses which did exist.

A memo from W. D. Conel, General Manager of the Retail Merchants' Credit Bureau of Los Angeles, was read into the record by Chairman Unruh. The memo referred to the decision of the Supreme Court of Arkansas which held that charges for credit services constituted a charge for interest and must, therefore, be limited to the legal rate of 10 percent per annum interest. Mr. Conel's memo further stated "the thinking of the Arkansas Supreme Court, as expressed above, indicates further the advisability of sound retail installment sales legislation which will permit service charges to be made at a rate commensurate with the expenses of handling such accounts."

Mr. Robert W. Sample, Vice President of the Better Business Bureau of Los Angeles was then called to the stand. His statement contained the following pertinent points:

1. Most businesses are honest and it is only a minority group who engage in misrepresentation and evil practices.
2. Hundreds of complaints are received by the Better Business Bureau yearly, covering:
   a. Carrying charges higher than anticipated because of the manner in which the contract was represented;
   b. Carrying charges misrepresented because buyers are all too frequently led to believe that the contract will be carried by the seller when such is not the fact;
   c Contracts are often arranged in such a fashion that no discount of the carrying charge is allowed for prepayment.
   d. By subterfuge, buyers' signatures are obtained to blank contracts.

In response to questioning by various members of the committee, Mr. Sample made these additional points:

1. "We think that time payment buying is a fine way for a lot of people to get a lot of merchandise, but we do feel that the minority (of sellers) are making charges and are working a hardship on a lot of people who can ill afford to pay the outlandish charges that are made for periods."
2. "Very often they (the buyers) are deliberately deceived. We believe, fairly, that any person who makes a purchase should have an opportunity to know exactly what they are getting into. All too often they don't give them the opportunity to multiply the monthly payments, to figure out just exactly what they are being charged on a time basis. They are led to believe there is no need to go to the trouble of multiplying it out, and all too often they sign these contracts without anything on them. In other words, they say the furniture is this much, you sign it here, the bookkeeper is out to lunch, it has to be typed in, etc, and they wait and put that in, sometimes after the contract has already been signed. Reminiscent of some of the automobile deals, (when) they used to teach the boys how to break somebody's pencil that wanted to figure out what the carrying charge was going to be."
3. "When they receive a complaint, the Better Business Bureau contacts the seller and tries to effect an adjustment, but are all too often told by the seller or holder, they are doing nothing illegal and an adjustment is refused."
4. "In many cases, carrying charges will amount over a period of time to 50 percent of the cost of the goods. This, we felt, was exorbitant but had no specific recommendations for a rate limitation."
5. "That buyers do not relish the assignment of their contracts to third parties although he was unable to understand this attitude except they feel that representations made by the seller that he carries his own paper have not been lived up to. He believed it

would be advisable to have a provision in the law with respect to the advertising of the sale of merchandise on the time payment basis."

The next witness to testify was Mr. Edwin F Franke, Chief Counsel, Legal Aid Foundation of Los Angeles. He stated that over 35 percent of all the complaints that they receive each year, rise from installment buying and that these complaints would far exceed 1,000 a year. He expressed the opinion that the time price theory was used by many sellers as a subterfuge to evade the usury act, and in connection with the specific case histories which follow he made this statement:

"We have been told by some sellers in the field that if they showed the full price—the time price—that they would not be able to get people to sign these contracts."

Documentary evidence was submitted by Mr. Franke in connection with the following cases:

CASE A

In a contract for a termite job where the cash price of $285 was quoted, the monthly payment was given as $10. The contract was altered after it was signed by raising the monthly payment from $10 to $11.23 for 36 installments. This resulted in a time price of $405.72, which included a service charge of $130.72, which is at the rate of 16 percent time price differential per annum. Mr. Franke commented, "We do not show this as an example of a higher rate; this is very moderate as compared to the average, but the buyer actually understood that the total amount she would pay was $285."

CASE B

This referred to an auto repair job at a cash price of $272.21. The contract disclosed only 18 monthly payments of $22.50. The finance charge amounted to $132.89, which is at a time price differential rate of 25 percent per annum, or an effective interest rate of 46 percent per year.

CASE C

In this case an illegible copy of the contract was delivered to the buyer. Mr. Franke commented that he felt it essential that a legible copy be delivered and said, "I think it would be a logical conclusion to say that when time after time after time, the same company delivers a copy that is not legible, that there may be some design in doing it." This contract listed the cash price as $277.90, less a down payment of $20, leaving a balance of $257.90, payable in 20 installments of $12.88 each. The payment schedule was changed after the contract had been signed to 24 installments of $19.77. This resulted in increasing the time price from $257.90 to $474.48, and included a carrying charge of $216.88, which is a time price differential rate of 47 percent per year or an effective interest rate of 87 percent. The case is now in court.

CASE D

This involves an auto repair contract The original cash price was $239, which was increased by additional and unnecessary items to $564.07. To this was added $225.93, time price differential, a rate of

24 percent per year or 44 percent true interest. The buyer believed at all times his total bill would not exceed $350.

CASE E

A Mr. Ferguson signed a contract and note for a motor repair job calling for 24 payments of $31.33 each, not realizing this amounted to a total time price of $751.92. The cash price which had been quoted as approximately $410, was increased by a time price differential of $342 which is at the rate of 40 percent a year, or 74 percent true interest.

Mr. McCollister asked Mr. Franke if he had investigated Mr. Ferguson's financial circumstances, to which Mr. Franke replied, "Yes, I did go into that. They are in a low-income bracket. He only has periodic work. His wife is really the support of the family; she earns about $45 per week. There are two children. * * *"

Mr. McCollister then asked if Mr. Franke would say that Mr. Ferguson was a poor credit risk and should not have had credit in the beginning, to which Mr. Franke replied, "for $751, I would say yes. Yes, he is a poor credit risk; however, if they had gone back to their original agreement for the work that was to be done on the automobile, it would probably have helped to maintain a better work record. Transportation "has been one of his problems. The bill was raised considerably, from the originally agreed figure also."

Mr. McCollister then expressed the opinion that the sellers were entitled to a little more earning on their money when they were willing to accept a poor credit risk, but that he was startled at a charge of over 50 percent year year.

Mr. Unruh asked Mr. Franke if he did not think that this extension of credit to Mr. Ferguson would result in making him a much poorer credit risk. Mr. Franke replied, "Very definitely so because the original arrangement was considerably under that $410 figure and by almost —well, adding another $150 to his bill, it was a blow to his ability to carry on and pay all his bills, but then when you add $342 and increase your monthly payments by almost $13 per month, it was the straw that broke the camel's back."

CASE F

In the Zuwick matter, the family became so overburdened with debt that they were unable to carry on their payments. The wife went to work and the creditors started levies against her and her husband. The husband lost his job and disappeared. The contract which was the contributing factor to this family breaking up, was the purchase of furniture at a cash price of $598 35. The details of the transaction are somewhat cloudy, but it appears that after they had paid $273 20 they refinanced the contract with the result that the total cost to them would amount to more than $1,000.

CASE G

On a $197.03 bill, payments ran to $393.76 for a 24-month period. The time price differential of $196.73 is over 50 percent a year, or 92 percent true interest.

Mr. Franke made the statement that deception is practiced generally in the group of businesses involved in these cases and Chairman Unruh asked him to what type of businesses he was referring. Mr. Franke

replied, "Well, you will find it in radio repairs, auto repairs, furniture, TV, appliance contracts. However, it is only a segment of the business. May I say, that in the 25 years I have been connected with this work, among the major department stores here. * * I was asked the other day how many times we had clients come in with complaints on those stores. I could only recall about five of them and only two of them in which the client had some justification. I might point out that the client was a particularly difficult person and that may have had some bearing on the matter not being adjusted. The majority of business does not get into this type or kind of contract."

Chairman Unruh: "We are not talking now of stores like May Company, Broadway, Sears—these stores you say, you have had five complaints and most of those not justified, in your opinion, in all of these years at these stores, over a period of years."

Mr. Franke: "Yes, 26 years since I have been in this work. Those are the only ones we can recall, and they sort of stand out because they are so few."

Chairman Unruh: "Thank you."

Mr. Franke: "A portion of the business doesn't get into this type of thing, but these people that deal in this manner, make it a regular practice. It is a design that is part of their selling campaign—advertising away below price and then entering into contracts. As a matter of fact, they don't intend to do a cash business. They make their profit out of the contract."

Questions by Mr. McCollister and answers by Mr. Franke follow:

Mr. McCollister: "* * * is this case of Resnick and one Samuel Ferguson, a usual thing, or is it one that you just happened to find?"

Mr. Franke: "No, in these statements we prepared, we tried to pick cases that were—that would be average—that we would run into repeatedly from the same people. I could bring in many more."

Mr. McCollister: "In answer to my question then, it is an average situation."

Mr. Franke: "That's right. We had one situation, in which the balance was $75 and they added $85 to it, and the contract called for 12 equal installments. That is not a usual situation. Then we had another one, in which the sale of a $22.50 toaster—12 payments of $5 each, over one year."

Mr. McCollister: "I think the degree of intelligence of our people ought to be higher than that."

Mr. Franke: "We should think so, but it is the method in which they operate. You have high pressure salesmanship and at that point, they talk the $22 figure. Then when they come to sign, they have $5 per month, then your "12" is blurred or it isn't brought out very clearly, and it is only after they get their booklet, that they realize what has happened."

In response to further questioning, Mr. Franke made the following statements or suggestions:

1. Motor repair contracts are sometimes sold to finance companies at a 10 percent discount from the cash price. This 10 percent becomes a reserve for the dealer.
2. The finance companies profit most in these transactions. They get the carrying charge, withhold the 10 percent dealer reserve (which the seller may never recover) and in the case of repossession, they get the car and may be able to make a profit on the resale.
3. He suggested that all price tags mention both the cash price and the time price. (This is felt to be impractical by the committee.)
4. Provisions regulating repossession should be contained in the act. Sellers are not familiar with the provisions set forth in codes, but they will study whatever legislation on this subject is enacted.

In conclusion, Mr. Franke expressed the opinion that the proposed legislation was a tremendous step forward.

Testimony was next given by Lt. Mark W. Smith of the Los Angeles Police Department, assigned to the chief investigator for the police commission.

Lieutenant Smith explained that the auto repair industry in Los Angeles is under special regulation, as they must get police permits before they can operate, and to hold them they must operate within the law. The police commission has no jurisdiction over carrying charges or interest and consequently, they take no complaints where such charges are the entire basis for the complaint However, when other factors are included in the complaint, they have a record and Lieutenant Smith submitted a list of 31 cases where carrying charges were a part of the complaint. Carrying charges in individual cases, according to this list, ranged from a low of 21 percent, to a high of 80 percent time price differential per year, or in true interest, rates from 39 percent to 148 percent per annum. Lieutenant Smith was unable to state with accuracy the number of complaints received which dealt exclusively with carrying charges, but estimated there would be two or three dozen each a year. A portion of Lieutenant Smith's testimony, outlining the method of operation of these garages is given elsewhere in this report, in the section entitled "General Statement and Observations."

Lieutenant Smith had no specific answer to Chairman Unruh's question as to why the rates charged varied to such a great degree, except to say that the charge is perhaps whatever the traffic will bear.

The following questions are by Mr Kelly and the answers by Lieutenant Smith:

> Q. If it is not confidential, what are the complaints other than this feature, which showed up on this report: What leads you into being able to get this? Is that confidential or could you tell us?
>
> A. No, it isn't confidential. The complaints generally come to us like this: "We saw an ad for complete overhaul for this ridiculously low figure. No down payment and as long as we want to pay. We went there. They tore down our automobile and found that

they couldn't give us that advertised overhaul because our car was in such bad shape they couldn't guarantee it. If they gave us the advertised overhaul, they couldn't guarantee it. So I authorized additional work." And then the complaints generally started from that, to that they didn't authorize these things. "All these things they didn't authorize and these things were entered on the bill after I had signed the authorization to do these things. I didn't know they were going to sell the labor contract to a finance company. I thought they were going to handle the financing." It generally boils down to unauthorized work, misrepresentation, using secondhand parts for new, or charging for parts not even installed.

Q. Now there is a correlation then, between just a plain crook and the kind of guy that is doing this, evidently.

A. That's right.

Q. Are there any of these that ever result in a good fist fight? Did that ever happen?

A. Yes. One of the customers hit one of the garage men over the head with a part of the car

Q. My dad told me that in Dublin that would be legal. I don't think it is here, probably. But that seems to be one method of probably leading to the complaint, isn't it?

A. Well, the heat of argument is tremendous at some of these garages and one fellow did hit the garage man over the head and hospitalized him.

Q. Of course, then another complaint is filed, I suppose.

A. He didn't even file a complaint.

Q. I just wanted to bring that out—that probably temper comes into this quite frequently, then leads to a complaint coming beyond the excessive charges here.

A. Well, the radio car officers are frequently called to quell disturbances at these garages that capitalize on this type of selling.

The following questions by Mr. Kaiser and answers by Lieutenant Smith:

Q. I believe you might recall that Mr. Franke testified that part of the procedure at times, was that the repair organization contacted the finance company and obtained credit approval first, before they proceeded with the work.

A. That's right.

Q. Has there been any indication to you by the complainants that there might have been collusion between the repair company and the finance company, in order to determine the amount of work that would be done on the car?

A. Well, there have been indications of that. * * * We know that in some instances back through the years, that the finance company was half owner in the particular garage and that in one instance, one of the garage men admitted that he got kickbacks from the finance company. Originally, they tore down the car before they arranged for financing. I think the practice now is that they arrange the financing before they tear the automobile down.

Q. In other words, the prior operation might have resulted in putting the car owner in a pretty bad position and he would have to go through with the contract if his car was torn down.

A. That's right.

The following questions are by Chairman Unruh and the answers by Lt. Smith:

Q. Was this practice eliminated voluntarily or as a result of expressed desires of the police commissioner?

A. Well, the police commission has revoked three large operators in this field and it has had a good effect on the industry.

Q. When they tear the car down for repairs—I mean, when they arrange for financing first, as they do now, how do they determine what the amount of financing is going to be? I mean, do they just arrange for a general financing transaction or is it specific?

A. Well, the customer fills out a credit statement. Now what goes on between the garage man and the finance company, I don't know—as to how they base what the charge should be.

Q. Do you have any indication that the amount that was going to be charged for the job is arrived at before the job is actually begun?

A. Yes, I would say so.

Q. In a case of that kind, does this violate your city ordinances?

A. No, nothing involving financing involves city ordinances or the Board of Rules.

Q. Even where there may have been collusion between the garage owner and the finance company? You have no jurisdiction over that?

A. That's correct. If we could show some type of fraudulent collusion, I believe we would have jurisdiction there and we have made the several instances a part of the evidence in some relocation proceedings where they did show a pattern or a scheme of design.

As there were no further questions asked of Lt. Smith, the Chairman called Mr. Edward Bruna, Collection Manager for the Co-trustees of the Equitable Plan Company of Los Angeles to the stand. Mr. Bruna was sworn in.

Chairman Unruh asked Mr. Kaiser to conduct the questioning of Mr. Bruna. Mr. Kaiser started by asking Mr. Bruna to verify that the terms of a contract of Mr. Wayne M. Kenny, purchased by the Equitable Plan Company, called for 24 payments of $15.60 each, starting January 20, 1956. Mr. Bruna stated that this was correct.

The following questions are by Mr Kaiser and answers by Mr. Bruna:

Q. In January 1957, Mr Kenny's account was past due and a late charge of $1 was made. Then he made payments in varying amounts—$20, $17, $20, until May 1958, when he made a payment $10, which was offset by a late charge of $10. From that time forward, if he had continued making payments of $10, he would have paid forever, is that correct?

A. That is correct, sir. A 100 percent late charge.

Q Now we will turn to your exhibit of your late charge table. I have a copy of that which you may keep. Do you have a copy?

A. Oh, I have it pretty well memorized.

Q. Would you explain just exactly how this late charge table operates?

A. The conditional sales contract provides for a late charge of 5 percent of the delinquent payment to be assigned when the payment is over 15 days delinquent. That could be construed as 5 percent of the payment at the time it is made, or 5 percent of all delinquent payments at the time of delinquency. Construction, according to this table, is one based on the number of payments delinquent at a particular given payment date. For example, an account is not paid for six months. The theory is that one payment is six months delinquent, another one is five months delinquent, one is four months delinquent, multiply all that by 5 percent and you get 100 percent That is what happened to Mr. Kenny. In other words, progression is 5, 15, 25 and so forth.

Q. It is a pyramiding situation?

A. That's right.

Q. It is the rule of 78 applied in reverse?

A. You actually get to 105 percent. Now the schedule is, that if there are 12 payments, 12 months delinquent, there are 78 payments delinquent and the late charge then is 390 percent. That is theoretically correct, according to the chart.

Q. Was that ever applied?

A. No.

Q. Why not?

A. That is on an IBM situation, wherein the most they can charge is 100 percent. In other words, at six months delinquency, he pays the 100 percent; at seven months, why he doesn't pay anything.

Q. In other words, mechanically you weren't able to go higher than 100 percent?

A. The only time that it would get over 100 percent is at the time they would access a late charge at the time a legal situation would come up.

Q. Have you any knowledge of the amount of revenue that accrued through this plan?

A. No.

Q. Was it substantial?

A It was substantial.

Q. Do you know of any other organizations who are using a similar pattern?

A. None.

Q. But so far as you know, there is nothing in the law that would prevent anyone who wanted to do so from doing so?

A. As far as I know, there is nothing.

Q. Now—let's pass from that to your legal fees. As a understand it, Equitable operates a legal department in the sense that they pay all the expenses, including rent, salaries, utilities, tele-

phone, etc., for the operation of the department, with the exception of the fees for an attorney. The attorney is paid on a retainer basis.

A. That is correct.

Q. What were the amounts charged to customers' accounts in the calendar year of 1957?

A. The exact amount was $97,418.65.

Q. And the retainer fees paid to an attorney?

A. Nine thousand dollars.

Q. And the cost of operating that department, excluding the attorney's retainer?

A. Thirty-five thousand, eight hundred ninety-three dollars and fifty-two cents.

Q. Would you come out with a profit on this operation?

A. Possibly yes, depending on how much of the legal fees charge to the accounts are ultimately collected. Assuming that they were wholly collected, naturally, that would be a very nice profit.

Q. Now, are these fees always assessed only as a result of a judgment that is obtained through default or by decision of the court?

A. No, they are assessed at the time the legal action is initiated.

Q. And what constitutes a legal action?

A. Oh, any type of attachment, automobile, straight suits, salary attachment.

Q. In other words, there always is legal action.

A. Yes.

Q. And as a result of that legal action, do customers then come to you to ask that the case be dismissed and make other arrangements?

A. Yes, they do come.

Q. When you make those arrangements, you don't cancel the legal fee?

A. No.

In response to further questioning by Mr. McCollister, it was admitted by Mr. Bruna, that Kenny's case represented an average procedure, but that this policy had been changed by the cotrustees after they took charge of Equitable.

The following questions are by Mr. Rumford, the answers by Mr. Bruna:

Q. Under this plan, it would really be advantageous for you to encourage people to become delinquent, would it not?

A. Well, from a revenue standpoint, yes.

Q. Did you do this? In other words, did you make it convenient for people to become delinquent?

A. No. On the contrary, we extended a great deal of collection effort, we tried to keep our account as current as possible, obviously, to keep our financial statement looking well from an agent's standpoint.

Q. What happens in these cases, where you find that they are not going to meet or are unable to meet the final requirement

where the charges and the payments are the same and there is no reduction in the balance? Do you repossess?

A. We only repossess as a last resort, we do when it becomes uncollectible and there is no money coming in.

Q. What percentage of these contracts do you repossess?

A. I couldn't even guess at that—a very small percent.

Q. But you did do that occasionally?

A. Yes.

Q. When they had no more money—when you extracted all the money out of them that you could?

A. That is correct As an industrial bank, we had no facilities for handling furniture.

Q. Yes, but there is really no advantage to them to pay on time where you could just make a normal rate of interest.

A. I'm sorry, I didn't follow that.

Q. I say, there was really no advantage for them to pay on time under your plan.

A. Yes, there is, because there is no penalty if they pay on time.

Q. But you couldn't gain from that?

A That's right.

Chairman Unruh, by questioning, developed that the Equitable Plan Company is a corporation under the supervision of the Corporation Commissioner, but that the Corporation Commissioner had no jurisdiction over the rate at which conditional sales contracts would be purchased.

There was considerable questioning by Messrs. Thelin, McCollister and O'Connell, regarding the disposition of the attorney's fees charged to accounts by Equitable which resulted in these following conclusions:

1. Reasonable fees were based on the experience of Equitable as to what a court might allow.
2. That these charges might be collected from a debtor before the action ever reached the court.
3. That while all the charges were not collected, there is the possibility that the amounts collected could exceed the costs of the legal department.
4. That Mr. Bruna had no knowledge that any amounts collected over and above his retainer ever went to the attorney.

Messrs. William Mann and Norman Mann, owners of the Home Owners' Investment Company of Los Angeles had been summoned for the purpose of testifying regarding two complaints made to the investigator by Elmer and Lorraine Carter and Annie Laurie Nelson, respectively, in connection with home improvement contracts purchased by the Home Owners' Investment Company. These witnesses were sworn in and gave their testimony under oath The substance of the complaints was:

1. That the buyer in each instance was not aware of the amount of the financing charged and this amount was not disclosed in any of the papers signed.

2. Each complainant reported that the number of installments quoted by the seller were less than the numbers contained in the contracts when sold to the Home Owners' Investment Company.
3. Mrs Carter reported that she was quoted $1,170 cash price for material and labor and was made a loan of $225 in cash but that $300 for the loan was added to the cash price of $1,170.

An inspection of the buyers' copies of the contracts revealed that they contained the following clause·

> Materials and labor to cost $ _____. Down payment $_____. Balance of $ _____ to be financed for _____ months Monthly installments of $ _____ each First payment to begin _____ *The above monthly payment includes carrying charges and time price differential for the term of the contract.*

In each case the space for the number of months and the date for the first payment had been left blank

In the photostatic copies of the original contracts submitted by the witnesses these figures did appear Witnesses also produced photostatic copies of notes which contained the principal balance, the number of installments and the amount of each installment. The notes did not, however, contain any disclosures of the cash price or the amount of the financing charge

Mr Norman Mann denied any knowledge of the loan reported by Mrs. Carter, saying that if he had had any knowledge of such a transaction he would not have bought the contract.

Under questioning Norman Mann admitted that there was no disclosure in any of the papers as to the amount of the financing charge, but that he felt this to be unnecessary because the buyer would be able to calculate the difference between the face amount of the note and the cash price of the contract and realize this to be the financing charge As to the possibility that the notes could have been signed in blank, he said he couldn't answer The following portion of the examination and testimony illuminates Mr. Mann's attitude:

> Mr. Kaiser: When I say disclosures, let me clarify that. Full disclosures I mean, which set forth the cash price, the down payment, the remainder, the addition of the service charge and the total time balance Now that is what I call a full disclosure.
>
> Mr Norman Mann· Well, that is what you may call a full disclosure, but we demand that the contractor bring to us a note which shows the full amount of the balance and we feel that that is about as far as we can go. We feel the people know what they are going to pay for it and that is it As far as breaking it down into little pieces for them, we don't and we have no intention of doing it unless, of course * * * .
>
> Chairman Unruh: Why do you have no intention of doing it?
>
> Mr. Norman Mann Because we don't feel that it is necessary.
>
> Chairman Unruh· Do you think that it might in any way restrict the ability to sell these contracts?
>
> Mr Norman Mann: No I don't think so
>
> Chairman Unruh Then what would be your objection, Mr Mann, to performing this very small service to the——

Mr Norman Mann: It is not the performance it is the dealer and as a matter of fact a great many of the dealers object to breaking down for the simple reason they don't want to take the time to do it, and when we make up these papers, we make them up with the feeling that the note would disclose to the people their gross balance.

There can't be any question about it. * * * This note was written once and in numerals twice * * * and there just can't be any question as to what it is.

As to the rate of the carrying charge, Mr. Mann stated that in improvement contracts they suggested a rate of 13 percent per annum to the contractor but that some contractors charged less than this. He admitted this rate was equal to an approximate 25 percent interest rate. However, when it came to furniture and appliance contracts their rates were 13.5 percent for the first year and approximately 15 percent for the second year. (Apparently this means if the contract is for a year or less the lower rate is used but if the contract runs for more than a year the higher rate is used.)

It was also brought out that in connection with furniture and appliance contracts their form contains a breakdown of the disclosures. Their automobile contracts are made up according to legislative direction. Their home improvement forms were designed from a contract used by one of the savings and loan companies. This information was given to explain why three different types of contracts were used by them

Chairman Unruh called attention to the fact that in Mrs. Nelson's copy of the contract the number of months for which the contract was to be financed was left blank and this "means very frankly they (the seller) can add on any kind of service charge they want to. This could just as easily have been $15,000 or $3,000 if they had so desired." Mr. Mann contended this was an impossibility and based his opinion on the fact that the contract he bought was completely filled in and that the note was filled in with the total gross amount. (In view of the complainant's statement that she had understood her contract would be arranged on a 36-payment basis, but called for 60 payments when sold to the finance company, the possibility that the note may have been signed in blank cannot be overlooked.)

After exhaustive questioning by committee members, Mr. Mann stated that while he did not think that legislation which would require full disclosures in a contract would do any good, he would have no objection to such a requirement as he felt he could still stay in business and that buyers would sign such contracts and he would continue to buy them. He stated that the only objection he had to the proposed legislation was the 10 percent limitation on time price differentials as he felt this would "put a lot of the middle guys out of business," referring to furniture dealers, appliance houses and the fellows that go out and peddle merchandise.

Further questions and answers having to do with whether or not second and third trustee notes and mortgages could be used for home improvements is not recorded because it is not particularly pertinent to the purpose of this hearing.

Mr. George C. Chatterton, Chief Public Defender for the City of Los Angeles, presented a prepared statement in support of the proposed legislation. A synopsis of this statement follows:

1. Their office sees a steady stream of persons who are distressed and whose families suffer hardships because of lack of laws relative to installment sales of services and personal property other than automobiles.
2. The proposed bill will eliminate sharp and unethical practices on the part of some installment sellers, finance companies, and collection agencies who are dealing financially on the ignorance, inexperience and gullibility of the people with whom they deal.
3. These firms give no recognition to misfortune such as illness or loss of employment that may temporarily result in loss of income. No period of grace interrupts the automatic garnishment or repossession with the attendant increase in the amount owed.
4. A great source of profit in the installment selling field lies in the collection of delinquent garnishment and attorneys' fees.
5. The act will eliminate most present injustices; it will eliminate firms thriving because of a complete lack of ethical business standards; the passing of these firms will restore public confidence in the legitimate businesses in this field.
6. It is essential that the bill contain provision that a waiver is unenforceable in order to prevent such a waiver being obtained through deception.
7. Many newcomers to California are of limited business experience and education. They are misled by fluent salesmen. They must be protected from their own misplaced trust. The requirement that they must be given a completely filled out copy of the contract will be a forward step.
8. He suggested that firms engaged in installment selling be required to post a bond to insure performance on their part.
9. His comments regarding attachment of wages has been previously quoted in the section of this report entitled *General Statement and Observations.*
10. He approved of making willful violations of the act a misdemeanor. He believes this will "result in a migration from our State of those responsible for the abuses we now have in the field of installment selling. They are for the most part recent arrivals from eastern states which enacted laws of the nature of (the) proposed act. Criminal punishment does not appeal to them."

In answer to Mr. Thelin's statement that wage attachments were used by well established business firms and that the right to attach is of some value to businessmen inasmuch as it allows them to give credit to some people that they otherwise would not give credit to, Mr. Chatterton explained that most attachments were made by finance companies and collection agencies and that 100 percent of the 645 releases field by his office in the year 1956-57 were from finance companies and collection agencies.

Chairman Unruh next asked that Mr. Ralph N. Goldwyn take the stand. Mr. Goldwyn, a partner in the Arc Investment Company, had been subpoenaed to appear but he made no appearance. The chairman said that he would take under consideration the appropriate action to take in connection with Mr. Goldwyn's failure to answer the summons.

Mr. William Caldwell of 2244 West 26th Place, Los Angeles, testified under oath to the following:

1. Prior to his employment by the U. S. Post Office he purchased a TV set from Hackett Television Company of Oakland.

2. His verbal understanding was that the amount of his balance would be $239.16 payable in 23 installments of $9.82 each, and a twenty-fourth payment for the balance.

3. He asked the seller if they carried their own paper, saying he did not want to deal with a finance company, stating that if they did not he wanted to finance the deal through Bank of America. He was assured by the seller they carried their own notes.

4. Seller did not give him a copy of the contract.

5. Just prior to the due date of the first installment he received a letter from Seaboard Finance Company notifying him they had bought the contract and that his payments would amount to $11.15 a month for 24 months.

6. He then requested Seaboard to furnish him with a copy of the contract and protested the amount. Seaboard advised him he was not supposed to receive a copy of the contract until it was fully paid.

7. Under protest he made three payments to Seaboard and tried to get the matter straightened out with them. As he obtained no satisfaction he advised Seaboard he was suspending payment.

8. Seaboard contacted the postmaster who told the witness he had better get the matter straightened out. Caldwell was unsuccessful, despite his efforts to get Seaboard to return the contract to the seller and allow him to refinance it through Bank of America. Seaboard continued to call the postmaster and ultimately Caldwell was discharged.

9. He signed the contract without reading it because the seller said it was near closing time and he was in a hurry.

Following Mr. Caldwell's testimony Mr. Marvin L. Holen, investigator on the staff of this committee was sworn in and read a transcription of a tape recording of an interview between himself and Mrs Lorraine Carter of 9306 Wilford Avenue, Chatsworth Lake, California, stating that Mr. and Mrs Carter had moved out of the State since the recording was made and were not available as witnesses. The substance of this recording follows:

1. That a certain salesman named Frank Hartnagle wanted Mr. and Mrs. Carter to let them use their house as a model to put ceramic siding on it. Mr. Carter told him they could not afford to

do it as they owed other debts. Mr. Hartnagle then offered to give them $300 so they could pay their other bills

2 That a verbal agreement was reached with the understanding material and labor costs would amount to $1,170 and the seller would give them $300 Seller later gave the buyer only $225, explaining he had to put up a bond for $175 in order to make their credit good Buyer understood payments would be for $46.54 a month for a period of 36 months.

3. That the contract which was signed by the buyer provided for material and labor cost of $1,470 (which is the amount of the original quotation plus $300 in cash) and 48 monthly payments, instead of 36, at $46 54 per month.

4. That they were not aware when they signed the contract that it called for 48 payments or that the financing charge would amount to $763 92.

5. That when Mr. Carter protested about having been given $225 in cash instead of $300, the contractor told him "it wasn't in the contract anyway, so they could either take that or nothing."

6. That the work was not satisfactorily completed

7. That the contract was sold to Home Owners Investment Company That Mr Carter became unemployed and payments were missed and the holder threatened to foreclose on the property.

Following the reading of the transcript Mr. McCollister called attention to the testimony of Mr Mann of the Home Owners Investment Company in which Mr. Mann stated he thought the Carters knew that they were signing a contract for $2,233 for $1,470 work on a time differential basis because he held a note signed by the Carters for $2,233, and he then asked Mr Holen if it was his impression the Carters did not expect to pay $2,233 Mr Holen replied that this was his impression based on the repeated statements of Mrs Carter that they understood they were to make 36 payments, not 48.

Mr. McCollister then said "* * * that leaves us somewhere in the middle, because it leads to the point that they knew they were going to pay some finance charges, but they didn't know how much," and asked "you, as a staff member of this committee are content to leave me feeling there is a discrepancy between the Mann testimony and the Carter testimony?" to which Mr Holen replied "I should say there was"

No further light was thrown on this situation through additional questioning by members of the committee, and the hearing was recessed until 10 a m. on the morning of the 15th.

AUGUST 15, 1958

The second day of this hearing was called to order by Chairman Unruh at 10 a.m. August 15, 1958. Members of the committee present were Assemblymen McCollister, Rumford, Thelin, Crown and Chairman Unruh. Staff members present were Arthur E. Kaiser, Committee Consultant; Marvin L. Holen, Committee Investigator; and Mrs. Marion Cerrell, Committee Secretary Assemblyman Augustus F. Hawkins visited the hearing for a short period.

In opening this session, Chairman Unruh made these remarks:

> "We stated the purposes of this meeting yesterday and want to re-emphasize today that the lending agencies we are dealing with here have not been found in violation of the law, but in a breach of what we consider the principles of decency and they are a very minute number and percentage of the people doing business in the credit field in Los Angeles. I re-emphasize that most of our stores and lending agencies are reputable and are deeply concerned over the problem which a few of the people in the field have posed to them and as a consequence, have indicated at least tentative support for the type of legislation which we will propose at the next session of the Legislature."

The entire hearing for the day was devoted to hearing from witnesses who had suffered alleged abuses at the hands of retail sellers or finance companies. All witnesses were sworn. There follows a condensed version of the statements made by these witnesses, full details of which will be found in the transcript of the recording of the proceedings.

CASE NO. 1

Witness: Mr. Richard T. Harvey, 935 Pyramid St., San Diego.
Seller: Auction City, El Cajon.
Holder: Public Finance Company, El Cajon.
Goods: Appliances.

1. Witness signed a contract which had blank spaces and did not disclose the finance charge or the total time balance. Said he was not concerned because he intended to pay off in full within 60 days and understood only a small finance charge would be made if he did so.
2. Finance charge as shown by payment book received from holder was considered excessive by witness. He contacted the holder and was told the charge was correct.
3. He did not receive a copy of contract from the seller.
4. His offer to prepay the contract resulted in an offer from the holder to rebate only one-half of the finance charge and was conditioned on the buyer borrowing funds from the holder's loan division with which to make the prepayment. Holder required that this loan be secured by a chattel mortgage on furniture etc.

5. An adjustment was made by the holder after the witness had written to the Commissioner of Corporations, and the holder had been contacted by Mr. Kaiser, staff consultant.

Monetary Details

	As understood by buyer	*Shown as on contract*
Cash price of goods	$1,254.80	$1,546.80
Down payment	54.80	346.80*
Unpaid balance	$1,200.00	$1,200.00
Finance charge	514 29	514 29†
Time balance (24 at $72)	$1,714 29	$1,714 29
Payments made		216.00
Balance at time of payoff offer		$1,498.29
Discount quoted if loan made from holder		257.29
Payoff quoted by holder		$1,241.00‡

Mr. Harvey concurred with Assemblyman Rumford that all contracts should show all details of the transaction before a signature was required, and that a copy should be furnished the buyer.

CASE NO. 2

Witness: Mrs. Jean Land, 6127 Melville St., Los Angeles.
Seller: Hadley Furniture Co., Los Angeles
Holder: California Discount Co., Los Angeles.
Goods: Furniture

1. Witness understood from the seller's salesman that the amount of the service charge would be $23 96. It later developed that this figure was for sales tax and she did not discover that the full amount of the service charge would be $170.40 until she received a payment book from the holder.

2. After six months she decided to pay off the contract in full and asked the seller what rebate she would receive. They offered a discount of $26.66. She made a strong protest and finally obtained a rebate of $70 40.

3. She feels the amount of the service charge and the amount of rebate are unfair. Thinks 6 percent as charged by banks is enough.

4. She said the amount of the service charge did not appear on any papers at the time she signed them, but that it did show up on a contract containing her signature How it got there she doesn't know.

(Mr. Rumford asked for a legal opinion whether contracts where the amount was later filled in were enforceable. Legislative Counsel Czesla's opinion was given as "If the facts are admitted as alleged then it (the contract) would not be enforceable. However, the difficulty comes in the matter of establishing the evidence in a court—it really becomes a matter of one person's word against another's and the party is at a disadvantage Legally if you admit those facts then the contract is not enforceable.")

* Seller evidently doctored down payment to impress holder
† At rate of $21 40 per $100 per year; true interest 40 percent per year.
‡ This would have resulted in an earned finance charge of $257 for four months, or 64 percent true interest.

Monetary Details

Cash price (11/20/55)	$599.00
Sales tax	23.66
Total purchase price	$622.96
Down payment	82.96
Deferred balance	$540.00
Time price differential ($15.79 per $100 per year; 29.15 percent true interest)	170.40
Time price	$710.40
Less seven payments made	207.20
Balance at time of payoff (7/30/56)	$503.20
Rebate allowed	70.40
Amount of payoff	$432.80

On the basis of the final settlement Hadley earned $35.80 for seven months, a true interest of 20 percent; the California Discount Co. earned $64.20 or 38.4 percent true interest, and Mrs. Land paid $100 which amounts to 55.5 percent true interest.

CASE NO. 3

Witness: Mr. Werner Fueg, 400 W. Poppyfield Drive, Altadena.
Seller: Hadley Furniture Co. of Los Angeles (Glendale store).
Holder: First United Thrift & Loan, Los Angeles.
Goods: Furniture.

1. When witness purchased goods he was told by the salesman, in the presence of two witnesses, that if he paid off the contract within 90 days there would be only a small carrying charge of from $7 to $10, called a writeup charge. On the strength of this statement he signed an 18-month contract containing a carrying charge of $176.82.

2. Within the next 30 days witness wished to pay off the entire amount and called seller to learn the amount of payoff. Seller said he would have to pay the holder. When witness received a payment book from the holder he sent them a check for $750, the balance of the cash price. Holder acknowledged receipt of the payment but stated there was an amount of $41 still due for interest.

3. When witness refused to pay this balance he was told if he did not pay the balance the furniture would be repossessed. Witness then stated he would take the matter to small claims court and that he had two witnesses to the original agreement. This threat brought a receipt for the full amount.

4. Witness felt that charge of $176.82 was exorbitant for an 18-month contract, and he disliked the fact that Hadley had sold the contract to a loan company in view of their manager's statement that they did not sell their contracts.

5. Messrs. Rumford and McCollister asked that the record show that in their opinion legislation should provide that a notice be sent to the seller when a contract was sold.

Monetary Details

Cash price—12/7/57		$865.14
Down payment		106.14
Unpaid balance		$750.00
Carrying charge ($15.79 per $100 per year; 29 17 percent true interest)		176 82
Time balance (18 months)		$926.82
Payment tendered in full—1/14/58	$750.00	
Finance charge credit	135.84	885.84
Balance which Hadley demanded be paid but which was canceled under threat of suit		$40.98 *

CASE NO. 4

Witness: Mrs. J. J. DiLuccia, 3110 W. 119th Pl., Inglewood.
Seller: Hadley Furniture Co., of Los Angeles (Inglewood Store).
Holder: Same.
Goods: Furniture.

1. Witness protested the amount of service charge which she feels is an exorbitant rate.

2. At the time of purchase the salesman told her that the service charge would be prorated if she paid in advance.

3. At the time of prepayment she was allowed only $58.94 instead of $82.73 which she calculated should be the amount if prorated. She nevertheless made the payment as demanded.

Monetary Details

Cash price—2/16/58	$353.55
Down payment	53.55
Unpaid balance	$300.00
Carrying charge—$15.75 per $100 per year; 29.06 percent true interest	94.50
Time balance payable in 24 installments	$394.50
Two payments made	32.88
Unpaid balance at April 25th	$361.62
Payoff required by seller	302 68
Carrying charge rebate	58.94

Had rebate been made according to the rule of 78 it would have amounted to $72.77.

Based on the above settlement, the seller earned $35.56, an annual interest rate of approximately 56 percent.

Chairman Unruh then read into the record a telegram which had been addressed to Mr. Kaiser, staff consultant:

"The Board of Directors of the Furniture Retailers Association of Southern California, representing more than 600 stores in Southern California, have unanimously voted to oppose the legislation in the proposed bill to add Title 2 commencing with Section 1801.4, Division 3 of the Civil Code. As a member of the Furniture Retailers Association of Southern California we support the stand of the board of directors unequivocably."

(Signed) ANDREW R. JOHNSON
Administrative Assistant to the President
of Hadley Furniture Stores

* *This would have amounted to 66 percent interest.*

CASE NO. 5

Witness. James J. Mitchner, 10502 Antwerp St., Los Angeles.
Seller: Standard Motor Service, Inc., Los Angeles.
Holder: Arc Investment Company, Los Angeles.
Services: Repairs to automobile.

1. In March of 1958 witness took his car to seller's place of business and was quoted $200.37 for repairs. He informed them he did not want to pay more than $10 a month on time. He made a down payment of $35.

2. He signed a notation on seller's work order agreeing to pay $165.37 cash price. Below witness's signature on the work order appeared the notation that the time balance would be $319.68. Witness stated this figure was not on the work order at the time he signed it. Work order also contained the notation that if paid by March 11th the cash price would be $165.37.

3. He signed a note calling for 24 payments of $13.32. At home he figured out that these payments would amount to about $319. He called at seller's place of business and protested the amount, but was told "that's the way it is." He then arranged with the seller for an extension until March 15th in which to make the full cash settlement. On March 15th, after he had raised the required amount of $165 he again called at seller's office where he was told the contract had been sold and he would have to deal with the Arc Investment Company. He again protested but all the satisfaction he got was "that's the way it goes."

4. He then arranged a settlement with Arc Investment to pay them $205, which he did in three installments, one for $160, one for $40 and one of $5.

5. This transaction cost him $40 plus the amount of interest he will have to pay on the loan which he was compelled to make in order to pay off the holder, and feels he was defrauded by not having been informed of the amount of the finance charge at the time he contracted for the work.

Monetary Details

Cash price	$200.37
Down payment	35.00
Unpaid balance	$165.37
Finance charge ($46.50 per $100 per year; 86 percent true interest)	154 31
Time balance (which was not disclosed on note) payable in 24 installments of $13.32	$319.68

CASE NO. 6

Witness: Annie Laurie Nelson, 2639 South Budlong, Los Angeles.
Seller: Central Home Improvement Co., Los Angeles.
Holder: Home Owners Investment Co., 1625 South Main Street, Los Angeles
Services: Alterations and repairs to residence.
Comment: Witness is an elderly colored lady who had difficulty in clearly stating the events which took place. It is evident, however, that the contract which she signed was not in conformity with the understanding she had verbally with the seller's representative. The basis of her complaint is as follows:

1. She was told the cost of materials and labor for the repairs would amount to $2,000.

2. Witness understood there would be only a small or reasonable carrying charge for a three-year term, and her payments would come to $55 a month.

3. Before signing the contract she called seller's attention to the fact that the contract did not specify the number of payments, although it did specify $55 a month. Seller told her the number of months would be typed in later.

4. She could not clearly recollect if she signed a note for the full amount as shown below, or what other papers she may have signed, but when she received a payment book from the holder calling for 60 payments she protested but got no satisfaction.

5. She is making her regular payments of $55 each month.

Monetary Details

Cash price	$2,000.00
Carrying charge—13 percent per annum*	1,300.00
Time price—60 installments of $55	$3,300.00

* True interest 24 percent per annum.

CASE NO. 7

Witness: Bernard Dahl, 2914 South Vermont, Los Angeles.
Seller: Wholesale Distributors, Inc. (This is the way the name appears in the transcript. However, it appears as All-Save Distributors, Inc., on buyer's copy of contract. No address shown, only the phone number NO 2-3134.)
Holder: Term Plan Finance Company, 4000 Venice Boulevard, Los Angeles.
Goods: Sewing machine.

1. Mrs. Dahl, who actually made the purchase, was ill and unable to testify. She had told Mr. Dahl the machine was in their home on trial.

2. Mrs. Dahl was unable to get the machine to work. She contacted the seller on one occasion and a representative came to their home and got the machine to work at the time, but after they left the machine again failed to operate. Repeated efforts to get the seller to get the machine to perform were of no avail as the seller could not be contacted.

3. The telephone number on the contract is that of an answering service, and by persuasion Mr. Dahl learned the address out of which the seller operated. He went there on three different occasions, but never found anyone in. He described the place as just a hangout—no merchandise in it.

4. When he received a payment book from the holder Mr. Dahl called on them immediately with his complaint and asked them "why should I pay for a machine that does not work just because you bought the contract?" Holder offered to reduce the price from $170 to $140. Dahl refused saying he wanted the contract back and wanted to return the machine. The result was that his wages were attached.

5. Dahl testified he shopped around at legitimate stores and found this machine priced at $57.

6. Holder turned the account over to a collection agency. Dahl's wages were attached twice. The Public Defender secured a release of wages. Dahl is waiting for the holder to make the next move,

as he intends to defend any action which may be brought. However, he has been placed at great inconvenience and has lost time from work because of this transaction.

Monetary Details

Cash price	$139.00
Charge for home service which was never satisfactorily performed	8.00
Tax	5.56
Total selling price	$152.56
Down payment	10.56
Unpaid balance	$142.00
Finance charge ($11 per $100 per year)	31.18
Time price (18 installments)	$173.18

CASE NO. 8

Witness: Genaro Gutierrez, 946 N. Eastman, Los Angeles.
Seller: Julien Star Furniture Co., 3600 Whittier Blvd., Los Angeles.
Holder: Same.
Goods: Furniture.
Comment: Witness is a Mexican who speaks very little English. At times an interpreter was used.

1. When he signed the contract it was not filled in all the way down. It did not show the carrying charges of $151.

2. He received a copy of the contract again when the furniture was delivered, and this did show the carrying charge. When he found they were charging him $151 for financing he contacted them and told the seller to take back the furniture as he was not going to pay so high a price. Seller refused and witness is making the payments under protest.

3. Witness admitted he didn't read the contract before signing it. He was asked to read a clause in the contract aloud, which he did haltingly, but he confessed he did not understand what he had read. Said, however, that had the amount of the carrying charge been on the contract when he was asked to sign it he would not have done so.

Monetary Details

Cash price	$572.00
Down payment	30.00
Unpaid balance	$542.00
Carrying charge—$13.64 per $100 per year	151.00
Time balance—23 installments of $29 each (Subject to adjustment of final installment)	$693 00

CASE NO. 9

Witness: William Dowden, 21721 Armenta, Canoga Park.
Seller: Sepulveda Music Center, 8731 Sepulveda, Van Nuys.
Holder: Merit Loan Plan, 4113 Maine Ave., Baldwin Park.

1. Contract for the purchase of an accordion for his son was predicated on his son being given instructions and lessons in its use. Seller failed to perform.

2. Witness was late in making payments and protests the amount charged against his account for being late in making payments. Details of these charges follow:

Date	*Amount of payment*	*Credited to principal*	*Balance*	*Credited to collection costs*
December 13	$17.99	$8.68	$423.08	$9.31
January 29	8.68	.22	422.86	8.46
March 5	17.99	9.55	413.31	8.44

3. Holder used abusive and offensive language to Mrs. Dowden on the phone when making a collection call, inferring they were probably a bunch of ex-cons trying to beat the rap.

CASE NO. 10

Witness: Arthur G. Werner, 8813 Boyton St., Rosemead.
Seller: Associated Enterprises, 4423 West Pico, Los Angeles.
Holders: Budget Finance Plan for Freezer; National Thrift Co., for Food.

1. A representative of the seller told him that they were a subsidiary of Swift & Co., so the witness believed he was dealing with reputable people.

2. Witness stated that to the best of his knowledge there was no total on the contract at the time he signed it, it only showed the cash price and the sales tax, and he made a down payment for the amount of the tax. He believed he was signing up for a total of $600 which would include the finance charge, as the same sized freezer sold in the neighborhood for $450 or $500.

3. He became aware of the finance charge when he received a notice from Budget Finance Plan, together with a very faint copy of the contract. States he received no copy of contract at time of signing.

4. When he called Budget Finance they told him the charge was in order, but they did agree that he could return the freezer and get a release by paying $120. He found on reading the contract that it did provide for payment of 20 percent of the total cost if the contract were canceled. Witness paid the $120 and returned the freezer, but he is not happy with the representations made him nor the rate of service charge.

5. Although the rate of service charge on the food contract is much higher than on the freezer, witness has paid that contract because he used the food.

Monetary Details	*Freezer*	*Food*
Cash sales price	$600.00	$200.00
Sales tax	24.00	--
Total	$624.00	$200.00
Down payment	24.00	--
Unpaid balance	$600.00	$200.00
Finance charge	204.60*	20.02†
Time balance	$804.60	$220.02

* At rate of $13.45 per $100 per year for 30 months.
† At rate of $20 per $100 per year for six months

CASE NO. 11

Witness: Lawrence A. Hansen, 2262 231st Street, Torrance.
Seller: Appliance and Furniture Corporation, Los Angeles
Holder: Webster Thrift and Loan Company, Inglewood.
Comment: This case illustrates how both the buyer and holder can suffer financially at the hands of an irresponsible seller However, the holder is not without blame, for contracts are often purchased from this type of dealer at large discounts and the holder gambles that he can force collection on the grounds that he is a holder in due course. The question, however, is "Is he a holder in good faith?"

1. During November of 1956, witness ordered some used furniture and appliances from seller. Seller did not have the appliances in stock, but promised to obtain them and to make delivery of all articles within 60 days.

2. Holder notified witness they had purchased the contract and asked witness to verify the amount. He did so because he did not question seller's intention to make delivery.

3. Seller failed to make delivery upon notification and because of continued delays, witness notified seller he was cancelling the order and seller accepted the cancellation.

4. Witness had made a down payment of $50 to the seller, and had made one payment of $25 to the holder. His request for the return of the $75 was not honored. Seller went out of business and witness could not locate him.

5. In January of 1958, witness received a letter from the holder, advising that payments were delinquent He advised the holder he was not liable and explained what had happened. Holder insisted that contract be met but witness refused.

6. Holder then contacted witness' employer and threatened attachment of wages. Witness called at holder's office and learned that a total of $125 had been paid on the contract, but as witness had made payments of only $75, it was concluded that seller had made two additional payments of $25 each in order to delay action and avert suspicion. Holder informed witness that he (the holder) had been taken for over $50,000 by the seller. Holder suggested that witness pay them $250 in full settlement, which witness refused to do.

7. Holder then brought suit for $850. Witness appeared in court in answer to the summons with the intention of defending the action. Before the case was called, holder's attorney attempted to effect a compromise settlement of $150 which witness again refused. Holder's attorney then had the case dismissed.

As there was no further business to come before the committee, the hearing was adjourned until the hour of 10 a.m. on the twenty-first of August in San Francisco.

SUMMARY OF PUBLIC HEARING ON RETAIL INSTALLMENT SALES OF CONSUMER GOODS HELD AUGUST 21, 1958

Associations:

California Retailers Association, Emmons McClung, Associate Managing Director.
Legal Aid Society of San Francisco, Andrew P. Smirnoff, Associate Manager.
Better Business Bureau of San Francisco, Vernon Libby, General Manager.
California Bankers Association, Edward D. Landels, Secretary.
California Association of Industrial Loan Companies, Robert P. Donohue, Secretary.

State Agencies:

Division of Corporations, Donald A. Pearce, Assistant Commissioner.

Others:

Financial Counsellors, San Francisco, Morris Rabinowitch, Manager.
Complainants: Mrs. Dorothy Burton.
Bank of America: Walter P. Bruns, Vice President.
Attorney: Ruth Church Gupta.

Staff Members:

Arthur E. Kaiser, Consultant.
Marion Cerrell, Secretary.

Legislative Counsel:

Bernard M. Czesla, Deputy.

The hearing was held in Room L, 515 Van Ness Avenue, San Francisco and was called to order at 10 a.m. on August 21, 1958. Members of the Assembly present were Messrs. Don Mulford, Howard J. Thelin, Richard H. McCollister, Robert W. Crown, Allan G. Pattee, Wm. Byron Rumford, Ernest R. Geddes and Chairman Unruh. Staff members included Arthur E. Kaiser, Consultant and Mrs. Marion Cerrel, Secretary. Mr. Bernard Czesla represented the Legislative Counsel's Office.

Chairman Unruh opened the meeting by reiterating the statement made at the Los Angeles meetings, and called as the first witness Mr. Emmons McClung.

Mr. McClung stated his name and gave as his position, Associate Managing Director of California Retailers Association. He expressed appreciation to the committee for being given the opportunity to present the views of the association concerning the difficult problem of consumer credit legislation. He pointed out that their association represented over 5,000 conscientious retailers from all parts of California who sold every conceivable consumer want and they were fully cognizant of all the ramifications involving the use of consumer credit.

"We are all aware, said McClung, that a small minority of greedy operators have developed questionable, if not unethical practices, in the extension of credit and they felt that a definite course of action was desirable. As you know, he said, business does not like to submit to additional government regulation but the primary purpose of the proposed legislation is worthy of the support of all conscientious retailers." He stated the association definitely supported the proposal to limit interest charges, but recommended that as few administrative requirements as possible be enacted. He called attention to the provisions in the proposed legislation governing recovery of and attachment and

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recommended that if changes were found necessary in this area that such changes be made within the existing law.

Mr. McClung further said that the association's credit committee, composed of top credit executives, would give studied consideration to the proposed legislation and submit detailed recommendations at a later date. He expressed the feeling that the enactment of legislation as advocated will define reasonable credit practices and will result in the performance of a most worthwhile public service.

Mr. McCollister asked Mr. McClung to express his opinion of what interest rate should be stated in a bill, to which Mr. McClung replied that this subject would need more study * * * they were not ready to make a recommendation at this time but the rates proposed, namely 10 percent time price differential in contracts and 1½ percent per month in revolving accounts was in the area of being fair. In connection with the requirement of having the contract contain full disclosures, Mr. McClung thought this step would tend to simplify bringing the information to the public as to what the credit charges are and what the actual financing is.

Chairman Unruh next called upon Mr. Morris Rabinowitch who stated he represented The Financial Counselors in the Bay area. This organization deals in the service of assisting individuals who have become overburdened with debt, and aids them in budgeting and liquidating their obligations. He stated that 100 percent of their clients have become involved in debt through installment or contract buying.

So far as rates were concerned, Mr. Rabinowitch said he was concerned over the rates in connection with revolving accounts because these rates were changed from an original starting rate of 1 percent a month without notice to 1½ percent, and he feared that unless regulated there was nothing to prevent these rates growing to 2 percent and even 5 percent. He stated another serious charge which needed to be controlled was that of extension or collection charges, saying that when an account became three or five days past due these charges were made without rhyme or reason or without explanation.

One of the most vital things needed, according to Mr. Rabinowitch, is to require contracts to be filled out completely before signing, and that a copy be given the buyer.

In connection with repossessions and deficiency judgments, Mr. Rabinowitch suggested that the buyer should be allowed to repurchase the goods at the top bid price in the event of a sale. The advisability of this was questioned by Mr. McCollister. Mr. Rabinowitch confessed he did not know how such a provision could be enacted on a realistic basis, and he decried the fact that merchandise was often repossessed and the debtor felt this retaking cleared his obligation, but sometimes as long as three years later he was served with a complaint for a deficiency. He felt that the provision in the proposed legislation regarding the application of payments in connection with add-on sales was good.

Mr. Rabinowitch expressed the opinion that the regulation of financing rates would result in retailers becoming more cautious in extending credit, particularly as to overloading the buyer, and pointed out that in the southern part of the State from 700 to 800 individual bankruptcies a week were being filed. Chairman Unruh asked if any detailed

study had been made as to the cause for these petitions, to which Mr. Rabinowitch replied that no such study had been made recently, but that a study made two years ago indicated that 25 percent were because of deficiency judgments and expressed the opinion this figure would probably be higher now

Mr. Kaiser asked whether legislation which provided for adequate disclosures in the contract, but did not set a limit on rates, would be effective, to which Mr. Rabinowitch replied that he did not think so—he said you have to have both.

Chairman Unruh then called Mrs. Dorothy Burton, 763 Clayton Street, San Francisco, and administered the oath. Mrs. Burton told the committee that her wages had been attached for a debt incurred by Mr. Burton for a man's watch, and stated she and her husband were separated and living apart at the time the debt was incurred and that she had no knowledge the debt existed.

In response to questions Mrs. Burton said that the attachment was filed by a collection agency and that her employer told her if she didn't get the agency to clear her, she would be dismissed from her job. When she contacted the collection agency she told them the bill was not hers, but they told her she was responsible and asked her to sign a statement and pay the bill. This she refused to do She then contacted the Legal Aid Society who obtained a release of the attachment. She further testified she had seven children and if she had lost her job she would probably have had to have asked for relief from the county.

Mr. Czesla gave the opinion that while a wife's earnings might be liable for necessities he did not think they would be liable for this debt incurred by the husband under the circumstances set forth. In response to a further question by Mr. Thelin it was developed that in all probability the attachment was illegal but that a long and potentially costly lawsuit would be involved if she were to seek damages.

Chairman Unruh remarked that this case illustrated a point covered by proposed legislation, namely the elimination of attachment proceedings.

Mr. Andrew Smirnoff, an associate in the office of the Legal Aid Society of San Francisco, presented a statement prepared by Mr. David Silver, Chief Counsel of that organization, stating that Mr. Silver was unable to attend in person.

The primary purpose of the Legal Aid Society is to make available competent legal services, without charge, for those residents of San Francisco who have a meritorious problem in civil matters and cannot afford an attorney. According to Mr. Silver, 5,724 new cases were handled by them during 1957. Of these 1,540 involved economic problems, 2,596 involved family problems, 955 involved questions of property and the balance was spread through the remainder of the civil field, including torts, workmen's compensation, relief eligibility, etc. Economic and family problems are often intermingled so there may be more cases involving economic problems than their statistics reflect. A goodly portion of the economic problem caseload deals with attachments, garnishments and executions evolving out of conditional sales contracts.

Mr. Silver cited a case where furniture was repossessed from a wife, her husband being out of the Country. At the time of repossession

there was $315 owing on it. The furniture was six months old. It was resold for $53.57, leaving a balance of $261.43 still owing When Mr. Silver asked the collection agency which has attached the woman's small bank account for the deficiency, why the debtor was not given the courtesy of notice of resale and an opportunity to bid in, they simply advised the finance company had no contractual obligation to do so. In stating that in this instance the debtor could have raised $53 to keep her furniture, Mr. Silver implied that the debtor should have this right. (This parallels the recommendation made by Mr. Rabinowitch.)

Mr. Silver reviewed the case of Mrs. Burton, stating that she was not legally liable for the debt and that it was only through the intervention of the Legal Aid Society that her job was saved. "But," said Mr. Silver, "we believe there are many cases that do not come to our attention where the employe in a desire to preserve his job, and in the belief he is liable, hastens to the collection agency's office and signs a confession of judgment and an agreement to pay."

Another case cited by Mr. Silver in his statement was that of a young husband, whose wife was pregnant. This young man showed Mr. Silver a letter from a collection agency to his boss threatening suit and attachment unless the boss interceded and persuaded his employee to pay an alleged balance due under an agreement to purchase a set of books. The letter stated that the employe had not responded or shown any co-operation. The facts, however, were that the young man had written a letter to the seller three days after signing the alleged contract, explaining his financial difficulties, and withdrawing his offer to purchase, and this letter had been sent prior to the delivery of the books.

Mr. Silver pointed out that purchasers invariably admit they did not read the contract before signing, either because they do not want to take the time or because they succumb to the praise and platitudes of the salesman. He further stated that Legal Aid clientele is drawn from the 20 percent of the population at the lower end of the economic scale, that many of these people are illiterate or of limited education, and that in San Francisco 10 people of every 1,000 population need an attorney during the year and cannot afford one. The following quotation from Mr. Silver's statement illustrates the legal steps necessary in seeking release from an attachment:

> "Though it is true that the present law creates machinery for making application for release from attachment of the * * * salary, we find it often inadequate or ineffective before the damage is done. For example, half of his salary is of course exempt. To get the other half he must, pursuant to Section 690.26 of the Civil Code of Procedure, make application for release. The debtor has the burden of proving his rights to the release. He must make an affidavit stating the ultimate issuable facts, showing his rights to the release, and must serve this on the levying officer. The sheriff then mails the copy to the creditor and the creditor has an opportunity to make out a counteraffidavit showing why the debtor is not entitled to a release of the other half of his salary. A hearing can then be held before the court that issued the writ of attachment and a judgment may be rendered releasing all, part, or none of the half of the * * * earnings held under the writ. This judgment is appealable."

Broken families often result from debt and attachment of wages. The entire burden of care and support of children is put on the wife and frequently the Public Welfare Department must lend aid. Mr. Silver said the Legal Aid Society does not feel that it can or should make any recommendations as to legislative changes and so his presentation was confined to the facts as they had experienced them.

In answer to questions by Chairman Unruh and Mr. Thelin, following the reading of Mr. Silver's statement, Mr. Smirnoff expressed the opinion that creditors would not lose too much of their remedy by attaching on an execution of judgment, but he did not appear to definitely want to recommend the elimination of the right of attachment prior to judgment.

Mr. Donald Pearce, Assistant Commissioner in the Office of the Commissioner of Corporations, appeared to make a brief statement. He recommended that legislation provide that charges for insurance be limited to insuring only the property involved in a sale, at standard rates and only for the duration of the contract, and that the seller should not be permitted to burden the buyer with collateral insurance such as life, health, accident or credit insurance. He invited attention to Section 22458 of the Financial Code on the Personal Property Brokers Act which they have found to work out very well. He said he did not feel it necessary to put the administration of this proposed legislation in the hands of some administrative commission, as he felt the approach used in connection with the sale of motor vehicles was exactly the approach to use here until such time as abuses required administration.

In response to questioning by Mr. McCollister, Mr. Pearce explained that the Commissioner of Corporations had supervision over industrial loan companies and personal property brokers only as to rates and provisions on loans and not as to rates or conditions of contracts purchased by them, and that they had no jurisdiction over sales finance companies who dealt only in buying contracts.

When asked by Mr Kaiser if he cared to express an opinion as to whether or not sales finance companies should be licensed along the same lines as industrial loan companies and personal property brokers, Mr. Pearce answered that the necessity should certainly be considered, but not necessarily as a part of the proposed legislation.

Mr. Vernon Libby, General Manager of the Better Business Bureau of San Francisco was next called by Chairman Unruh. Mr. Libby explained that when the bureau receives complaints against business firms they investigate both sides of the story and offer their facilities to correct misunderstandings, right wrongs and provide a basis for restoration of good will between seller and buyer. Complaints received by the bureau alleged: (1) the seller quoted the full price of the merchandise; (2) this amount appeared on the conditional sales contract; (3) the purchaser signed the contract as requested without the contract being filled out in detail; (4) that the buyer's next information was in the form of a monthly payment book which showed an amount due considerably in excess of the understood quoted price. This total, investigation revealed, included the time sale charge which, it has been alleged, was not discussed with the purchaser and which had

not been inserted in the conditional sales contract prior to the signing by the purchaser. Mr. Libby cited two cases in illustration:

1. A complaint reported a purchase amounting to $321.95. Complainant alleged he was not given a copy of the contract at time of purchase. Payments were to be made over a period of two years. Complainant later discovered that $97.89 had been added as a time sale charge. (This is at the rate of 17 percent per year add on, or 32 percent interest). Complainant alleged he had no knowledge at time of purchase that this charge was to be added.

2. Another complainant made the same allegations as in the foregoing in connection with a purchase at a cash price of $444.95, to which a time sale charge of $129.95 had been added without his knowledge. (Rate 10 percent per year, or 18.46 percent interest.)

Mr. Libby recommended that legislation should set a limit on finance charges; provide that the contract may be paid off before maturity at a discount; that the contract contain full disclosures completely filled in; that the contract contain a warning to the buyer to be certain the contract is completely filled out before affixing a signature; and that a copy be given the buyer at the time of purchase.

Chairman Unruh asked Mr. Libby if they received complaints that the finance charge, even though the customer knows there is to be a charge, is excessive. Mr. Libby replied. "It's because they haven't known what it was that they complain of the excessive charge. It is altogether possible that if they knew the charge, they still might go ahead with the contract. But if they did not know they were paying this amount, to them it seems excessive."

At the conclusion of Mr. Libby's statement, Chairman Unruh explained that the number of individual cases here were not as broad as they had been in Los Angeles due to the fact that the investigator had been able to spend only three days in the San Francisco area. One expected witness failed to appear because of illness, and another was excused because he would lose a day's pay by appearing and the committee did not want him to go further into debt by testifying. Chairman Unruh then introduced into the record a portion of a letter which had been received that morning. Names were omitted because the letter had not been investigated. In substance the letter said that a lady's ring had been purchased at a cost of $224.95; a wedding ring at a cost of $109.95; total cost $334.90. Excise tax $13.40; life insurance $7 and carrying charge of $40.20 resulted in a time balance of $395.50 payable at the rate of $15 weekly, resulting in a 27-week contract. The true interest rate involved is approximately 42 percent per annum, or a time price differential rate of 22 percent per annum. This letter indicated that there are, to some extent, practices in the Bay area similar to those found in Los Angeles.

Mr. Kaiser, at the request of Chairman Unruh, read into the record the following letter received from Ralph A. Brown:

"My name is Ralph A. Brown, Managing Director of the Retail Furniture Association of California, which was incorporated on March 11, 1918, and which represents approximately 350 members who own about 500 retail furniture establishments in the State of

California. These establishments cover virtually all of the State from the Tehachapi Mountains to the Oregon border, located in 54 counties of the State.

"It is the position of this association that there already exist far too many governmental controls over our businesses, but with respect to the proposed legislation, related to credit and installment sales of goods and services (excluding motor vehicles) we are not opposed to the legislation in principle, but are, however, strongly opposed to the text of the proposed legislation in its present form.

"Some of the provisions would remove inherent rights of our members; would add much additional clerical work and record-keeping, and might tend to make credit consultants of the retail consumer.

"If, after public hearings in Los Angeles and San Francisco, and the committee's careful deliberation, it is found that a bill is necessary for the protection of the retail consumer, we respectfully request additional time to further analyze the proposed legislation, and submit to the committee, after consultation with other interested groups, a revision of the present text of the proposed legislation that will enable the average furniture retailer to comply with the final text of the bill when presented for consideration and passage.

"We shall expedite our efforts to supply the committee with the suggested revisions at an early date, and ask that this statement be read into the record of the public hearings.

"I wish to thank the committee, and in particular Mr. Jesse M. Unruh, Committee Chairman, and the Committee Consultant, Mr. Arthur E. Kaiser, for their co-operation and assistance to our organization."

Respectfully submitted,

(Signed) RALPH A. BROWN, Managing Director
Retail Furniture Association of California, Inc.

The next witness to take the stand was Mr. Walter Bruns, an officer of the Bank of America. In presenting a prepared statement, Mr. Bruns said they had some preliminary suggestions to propose, but that their technicians were still studying the preliminary draft and might have further proposals and suggestions at a later date. (Consideration has been given to these suggestions by the committee staff with the result that some of the proposals have been embodied in the final draft of the bill. Therefore only those items which were not adopted in whole or in part are embodied in this report.)

Mr. Bruns suggested that legislation be limited to the sale of goods, and that services be not included in the bill. While he admitted the garage situation as developed at the Los Angeles hearing posed a serious problem he commented that their organization had developed a large lending operation in connection with such services as medical, dental, funeral and education. When asked by Mr. Kaiser if these transactions were represented by notes payable to the bank, Mr. Bruns said they were, and it appeared from this answer these transactions were loans and did not involve the sale of services.

Mr. Bruns expressed the opinion that the itemization of the "time sale price" on the contract was unnecessary, and as it was not required in the installment sale of automobiles it should not be required in this legislation.

He protested the requirement that policies or certificates of insurance be furnished the buyer, and based his protest on the additional red tape and costs which would be involved.

The proposed rate of financing charges should be higher for these goods and services than it is for automobiles, said Mr. Bruns. He argued that while Bank of America uses a much lower rate than provided in the proposed legislation, this rate was not sufficient for the finance organization dealing with what he termed "nonbankable" risks. He pointed out that there is a fraction of the public—the lowest economic group—who will at times badly need credit and these people have to go some place. While he did not think these people should be gouged by the rates revealed at the Los Angeles hearings he felt legislation should provide a higher maximum.

He opposed the provision in Section 1806.2 requiring the holder to render a statement at the request of the buyer, explaining that their bank had recently installed electronic accounting methods and that the reconstruction of a particular transaction is a matter of considerable time and expense.

In relation to the minimum service charge calculation as provided by Section 1806.3, Mr. Bruns feels that the refund credit should be computed only after the deduction of the minimum service charge from the original service charge.

Mr. Bruns' comments regarding repossession provisions are not recorded here inasmuch as this entire article has been revised from the original draft, except for the 80 percent security interest provision.

Mr. Bruns pointed out that the provision in the third paragraph of Section 1812.5 prohibits a deficiency judgment if the contract has been liquidated to the extent of 80 percent at the time of repossession and asked that this provision be eliminated on the grounds that merchandise such as furniture, when repossessed will in most cases bring less than 20 percent of the original retail price.

In connection with the penalty provisions Mr. Bruns stated that the article in the proposed legislation constitutes a constructive approach but suggested that this legislation remove one area of confusion such as now exists in decisions under Civil Code 2982 (sale of motor vehicles) by the addition of a clear statement to the effect that noncompliance with the act does not void the basic contract. This, he said, could be accomplished by the provision that penalties as provided by this article are exclusive.

Mr. Bruns complimented the committee, its staff and counsel on having done a clever and scholarly job in preparing this proposed legislation.

Mr. Edward D. Landels, representing the California Bankers Association, took occasion to congratulate the committe and its staff on its thoughtful and painstaking study in drafting such a difficult legislation. Their organization, he said, would not oppose legislation which would accomplish three things: (1) provide a realistic limit on so-called

service charges; (2) require a complete disclosure to every buyer of all charges included in his obligation, and (3) provide some sort of minimum protection on prepayments.

Mr. Landels stated that he had hoped to be able to present a detailed statement of suggestions and amendments but time had not permitted this. He felt it might be helpful if at a later date their organization might be able to meet with Mr. Kaiser and reach an agreement of what is intended. Chairman Unruh assured him that Mr. Kaiser would be available for such a purpose. (These suggested conferences were later held and resulted in many constructive revisions to the proposed legislation. The committee is indebted to Mr. Landels, his associates and California Bankers Association for their wholehearted co-operation in solving some knotty problems.)

While he did not present a final recommendation, Mr. Landels commented on some of the provisions, covering substantially the same ground as covered by Mr. Bruns. Some of the points raised by Mr. Landels are recorded below:

1. Hospitals should be exempted from the act because compliance might result in increased costs to the hospital.

2. Minimum charges should be at least as great as permitted on motor vehicles. Contracts are smaller, involve more payments, and in most cases poorer security. In response to Chairman Unruh's statement that maybe the motor vehicle rate is too high, he said that his people didn't think so. He stated the suggested rates would not affect the banks because they discount this paper at 7 percent, but they thought that if the proposed rates were enacted a great deal of credit which is now extended might be eliminated.

3. He agreed with Mr. Bruns that the cost of furnishing statements as provided in Section 1806.2 might be very expensive.

4. There should be a small prepayment charge when someone pays off in advance to compensate for the work of putting the contract on the books.

5. He voiced strong opposition to the provision barring wage attachments. He said he failed to see the justice in exempting the wages of a man who bought a refrigerator on time and not exempting the wages of a man who borrowed on a note and used the money to buy a refrigerator. Any provision dealing with the attachment of wages he felt should be a statutory provision applying to all debts. Chairman Unruh debated this question, pointing out that the prohibition of attachments would prevent such illegal attachments as prevailed in the case testified to by Mrs. Burton. Mr. Geddes seemed to agree with Mr. Landels that it was not practical to put purchasers and borrowers into two different classifications, and Mr. Landels expressed the opinion that if it became generally known that nobody's wages could be attached for anything they bought on time defaults would soar tremendously and the very fact that wages could be attached served as a deterrent to default.

6. Mr. Landels expressed agreement with Mr. Bruns in his position regarding the 80 percent security interest test, as provided by Section 1812.5.

Mr. Robert P. Donohue, representing the California Association of Industrial Loan Companies, opened his remarks by saying "* * * after hearing Mr. Bruns and Mr. Landels I gueess I should just say 'me too' and leave because my sentiments are very much like theirs." Nevertheless he did express viewpoints on several parts of the proposed legislation which are made a part of the record. His association represents 26 out of 30 industrial loan companies operating in California, which do an estimated volume of over $100,000,000 a year in financing contracts and accounts receivable. This comprises well over half of their total volume and these companies are greatly interested in the work this subcommittee is doing. He stated that while no company likes to invite regulation his members are realistic enough to appreciate the fact that there have been some abuses to our credit system which call for correction. "The thing we fear in matters of this kind," he said, "is a proposed cure which might be more harmful than the disease. In other words, we would not favor legislation which was so strongly directed at an attempt to protect the interest of the retail buyer that it would impose restrictions on the seller and financing institutions which would make the granting of credit impracticable. We are sure your subcommittee has the same thought in mind in carrying out this project. * * *" It was in this spirit he made the following suggestions:

1. The features of our present laws on financing automobiles are workable and should be followed in the regulation of time sales of other goods and services. As a specific example he recommended that the size type in a contract should be six-point rather than eight-point, as this provides a readable document, and allows the printing of the contract on letter-size paper.
2. Require that "sales tax" be shown as a separate item in the contract disclosures
3. Delete the requirement that "time sale price" be shown as a separate item in the disclosures, as this would cause confusion by leading the buyer to believe this was the amount he had to pay.
4. The provision regarding balloon payments as contained in the original draft is unrealistic. (This has been revised in the final draft.)
5. Provide that the credit service charge be computed on the same basis, except for rate, as is provided by Section 2982 of the Civil Code for motor vehicles (This has been done)
6. The requirement that a buyer must be given a receipt for a payment made in cash should be modified to require that this receipt be given if requested by the buyer He felt it would be a harsh rule to try a holder for a misdemeanor just because the buyer failed to get a receipt. (This provision has been deleted from the final draft)
7. The provision for making refunds at the time of prepayment is subject to misinterpretation as to the meaning of the term "month." (The final draft has clarified this situation.)

8. The provision in connection with add-on transactions which limited goods previously purchased from being security for goods subsequently purchased might restrict the buyer from obtaining additional credit. (This provision has been eliminated from the final draft.)

9. Objections raised to the repossession provisions have been subsequently changed and improved.

10. Wages should not be exempted from attachment. His argument followed the same reasoning as presented by Messrs. Bruns and Landels.

11. Attorney's fees should not be limited to 20 percent (The final draft provides for "reasonable attorney's fees.")

12. When 80 percent or more of the total time price has been paid and the goods are returned at the request of the holder without legal proceedings in reasonable condition would be satisfactory except that it should require that the goods be returned at the written request of the holder (This recommendation was not adopted. The final draft of the bill does not limit the return of the goods to the request of the buyer or without legal proceedings.)

Mrs. Ruth Church Gupta testified strictly as an individual and not as a representative of any of the organizations which she frequently represented. Mrs. Gupta stated that as an attorney she acts as legal counsel for a small family relations association in San Francisco and has a number of clients who bring problems arising out of installment buying.

She expressed the opinion that the subcommittee is on the right track in trying to find some solution in curbing the sharp practices in connection with the enforcement of obligations incurred in which the buyer so frequently signs papers without knowing completely what he signs. She said that in her experience it is not the legitimate retailers or lending companies who cause the damage, but it is the fly-by-night operators who come and go who are responsible.

She approved of legislation which would prevent sellers from obtaining signatures to uncompleted contracts with blanks that are not filled in, stating that when this happens the presumption is that it is a legitimate contract and the burden of proof is always on the person who has signed it and not on the person who is passing the paper along as a negotiable instrument. She further commented that there should be a limit on the amount of total carrying charges permitted.

On the subject of warranties, Mrs Gupta had this to say:

"One of the problems that has come up frequently is the problem involving warranties. This happened a good deal when we had the siege of frozen food locker operators who gave us a very fine sounding deal. People signed up for frozen food lockers and deep freezers, etc., and then by the time they found they were defective or there was something wrong and decided to go after the manufacturers everybody had disappeared except the person who owned the (contract) and that person was still insisting on payment. They had no adequate way to rescind the contract and they were stuck for

deficiency payment; repossessions were made and supposedly credited with the amount of the resale—a private sale—but the merchandise had very little value. There is very little retail value on these things, I realize, but nevertheless most people would have deficiency judgments and no place to go. Again I think this is something that happens primarily with the sharp operator and this is where the law should hit. To warn the public against the sharp operator would not interfere with legitimate business interests ''

In conclusion Mrs Gupta stated that on small obligations where there aren't too many dollars involved, it is almost impossible for an attorney to handle a defense case and the debtor generally has no alternative but to make a settlement the best way he can. (The provision in the final draft of the proposed legislation, Article 11, should encourage attorneys to handle cases where there is a good claim or defense.)

No further witnessess coming before the committee, the hearing was adjourned by Chairman Unruh at 5 o'clock p.m.

SUMMARY OF PUBLIC HEARING ON RETAIL INSTALLMENT SALES OF CONSUMER GOODS AND SERVICES HELD DECEMBER 19, 1958

State Bar Association: Morris Lowenthal, Chairman of Committee of Deficiency Judgments.

Alameda County Agencies: District Attorney, Lloyd Jester, Inspector, William Sharon, Former Deputy; Better Business Bureau, Charles Walmsley, Manager Oakland Office.

Others: Legislative Counsel, Bernard M. Czesla, Deputy; Bernard J. Rolph, Former Collection Manager Biggie Furniture Co.

Staff Members: Arthur E. Kaiser, Committee Consultant; Marvin Holen, Investigator; Marion Cerrell, Secretary.

Complainants: Mrs. Inez Gomes, Francis Wysong, Mario Oliver, Louis Fontenot, Robert E. Nenad, M.D., Mrs. Joseph Theroux, Mrs. Elva D. Clay, Miss Betty Davis, Mrs. Edward Souza.

The chairman called the hearing to order at 10 a.m. on December 19, 1958, in Room "L" Mezzanine, 515 Van Ness Avenue, San Francisco. Members present were: Ernest R. Geddes, Howard G. Thelin, Byron Rumford and Jesse M. Unruh, Chairman.

Chairman Unruh announced that two previous hearings had been held, one in Los Angeles and one in San Francisco, and that this hearing was a continuation for the purpose of determining the necessity for legislation to regulate the retail sale of consumer goods and services, exclusive of motor vehicles. The first witness called was Mr. Morris Lowenthal, attorney and Chairman of the State Bar Conference Committee which studied the matter of elimination of deficiency judgments, and who appeared in response to a subpoena served on him.

Mr. Lowenthal entered into a lengthy discussion of the activities and recommendations resulting from the study made by the State Bar Conference Committee. The specific question posed to this committee was the suggestion that deficiency judgments be barred entirely as to sales of all personal property under conditional sale contracts and chattel mortgages, and the additional suggestion that it was common knowledge that the great development in the credit sales of household appliances, furniture and automobiles had resulted in considerable abuses.

As a result of considerable research their committee found that a vast quantity of consumer goods is purchased under conditional sale contracts containing substantial carrying charges, with the seller retaining title and having extensive rights to repossess the goods without any refunding or accounting to the buyer and not acting in the buyer's interest in any respect. They also found that consumer credit outstanding had jumped by leaps and bounds during the last decade and as a result, particularly in the last year, there was financial embarrassment which was dramatized by a great upsurge in overdue bills, repossessions, deficiency judgments, foreclosures and the like. The disturbing feature, said Mr. Lowenthal, was the fact that well in excess of 50 percent of all individual bankruptcies, according to the estimate of bankruptcy referees in the Los Angeles area, are the result of deficiency judgments on installment contracts.

Many examples of unjust deficiency judgments were brought to the attention of their committee, the common situation being that debtors are not aware of the clauses in contracts and believe that their only responsibility is to turn the property back to the seller once they are in default. Many debtors, according to Mr. Lowenthal, are induced to return the goods voluntarily on the promise that this return will liquidate their obligation only to be faced, a year or so later, with a suit for a deficiency with added charges in the form of repair, improvements, repainting, interest and attorney's fees. In some cases the amount of the deficiency judgment is more than was owed at the beginning of the contract. Carrying charges amount to 20 to 30 percent annual rates of interest and sometimes up to 300 percent.

The main factor their committee was interested in was that there was no protection in the present state of the law when articles were repossessed and resold. Many times such articles were resold in another city, or at a very low figure. Many contracts provided that suit could be brought in the city where the seller had his place of business, even though the sale took place in another city. Therefore, when repossessed goods are sold and resold at wholesale many times, and additional charges are added and suit is brought a year or two later, it is very difficult for the debtor to check into the facts of the resale price or the fairness of it. Many debtors who wish to challenge the price at which the resale was made are not in a financial position to do so, whether it is because the trial would be in another county or otherwise. They found that oppressive practices developed in certain collection agencies which harassed and hounded the debtor in the collection of a deficiency judgment through shameful tactics submissible under what has been described as the unrealistic garnishment and attachment laws in California. One lawyer wrote to the committee "the boys who are ever on the lookout for a fast buck have discovered and are pursuing a very lucrative racket."

One lawyer stated to their committee "I have had many situations with people who have come in and claimed they were persuaded to sign papers for the purchase of a deep freeze, a refrigerator, an automobile or other property in blank, and the papers were returned after being financed through a bank. The clients discovered they owed considerably more than they originally agreed to pay." Mr. Lowenthal pointed out that many of these matters are less than $500 and no attorney can afford to spend the time trying to establish the situation or the facts regarding it, or if the article is repossessed and resold trying to establish that the fair market value was not obtained. So unless an attorney takes the case without being compensated for his time the would-be client is left without any remedy.

Their committee, in its report, was faced with a dissent by one member who argued that people who have voluntarily entered into an installment sales transaction, should be stuck with their deal, but the majority of their committee agreed with the statement of our committee in its preliminary report that if large numbers of such people are induced to contract such debt beyond their ability to pay, there is a serious danger to the whole economy. In other words, their committee came to the conclusion that the paramount interest of the general

public over and above the rights of the sellers and buyers should be the determining factor.

Mr. Lowenthal stated that their committee, after concluding that oppressive practices do exist in the retail installment selling field, recommended that some legislative corrective action to prevent or curb the practices be adopted in California, and in their recommendation emphasized that unless the deficiency and repossession remedies are restricted, the uninformed will be victimized through aggressive sales and repossession practices. Their committee felt that these practices will cease if the state law will not enforce lopsided and overreaching terms in conditional sales contracts, and that the burden should be placed on the seller to be more selective in its credit risk.

The recommendations of the State Bar Conference Committee on the subject of elimination of deficiency judgments follow:

1. Deficiency judgments should not be entirely abolished.

   "We recommend against that because we felt there was a side that was presented by the sellers that had some basis and merit; that all deficiency judgments could not be abolished as such without interfering with the right and possibility of sales and carrying on our regular mercantile business."
2. Deficiency judgments should be barred after 60 percent of the purchase price has been paid by the buyer.

   Their committee disagreed with the proposal of our committee that deficiency judgments be barred after 80 percent of the purchase price had been paid by the buyer. Many of their members felt that a 50 percent test would be better than the 60 percent they finally agreed on. According to the information they received the New York experience under the 80 percent test has not worked out practically as much of a protection.
3. More exacting proof be required to establish the deficiency.
4. The seller should be given the right of electing to repossess and cancel the balance of the indebtedness, or not to repossess and be limited to an action to recover the balance owing, after the debtor has paid 60 percent or more of the purchase price.
5. That automobiles be not eliminated from the legislation proposed by the Subcommittee on Lending and Fiscal Agencies, or that separate action be taken to modify the present Civil Code, Section 2982-A on automobiles.
6. Notice to the buyer should be established before repossession and resale.
7. That legislation be considered which would establish some place where complaints should be filed and investigated, such as the Superintendent of Banks as was done in New York.

Their committee approved a recommendation to the Board of Governors of the State Bar to sponsor legislation containing the many other features that the Subcommittee on Lending and Fiscal Agencies is proposing, namely: restrictions on the terms of retail installment contracts; the disclosure feature; the limitation on credit service charges;

refinancing; prohibition against signing contracts in blank; requirement of large printing; detailed breakdown and itemization of the price and the payment and the carrying charges; etc.

> "The conclusion of the committee was that the legislation suggested is long overdue in California. If adopted, it would tend to correct the abuses and oppressive practices that have arisen, primarily, because of the absence of such legislation in California on this subject. There has been great discussion of federal legislation to regulate consumer debt. Our committee felt that this should be handled, not by Federal Government, but by state legislation that would meet the local needs and that would be fair and just to the sellers as well as to the buyers and would not restrict or hamper installment selling while improving the quality of installment debts. The matter is now in the hands of the State Bar Committee on Legislation to follow up."

Mr. Geddes asked Mr. Lowenthal to explain how the 60 percent realization test would work in the hypothetical situation involving a washing machine where more than 60 percent has been paid by the buyer, but due to abuse the machine has been damaged and substantial repair costs are indicated, but where the buyer then decides not to repair the machine but simply stops payments and asks the seller to take it back and cancel the debt Mr. Lowenthal explained that under these circumstances the seller would be, under the proposed recommendation, barred from a deficiency judgment but he would have the election of taking the machine back and canceling the balance owing or of bringing an action for recovery of the balance owing. Mr. Lowenthal reasoned that such a provision is fair because, by having paid 60 percent of the purchase price the buyer had established his responsibility and the prospects for recovery on a judgment would be well established. He further stated "once such an article is sold it depreciates very rapidly and there isn't much the seller can realize from a resale. By the same token he (the seller) if 60 percent or more has been paid, should not be allowed to take the article back from the buyer who may find intrinsic value far and above what it would mean to an outside purchaser of the used article. He shouldn't be allowed to take the article back, and on top of that sue for the whole balance plus the interest costs, plus the repair costs, plus attorney's fees and all the accumulated charges—but there should be an election. In the seller's hands there should be an election rather than a compulsory abolition of a deficiency suit."

Mr. Geddes pressed the question by asking if it should be required that the seller furnish the buyer with a statement of the election he was making, and Mr. Lowenthal agreed that that information should be given to the buyer at all stages, particularly when a repossession is made as to whom the article is resold so that it can be determined if the resale was bona fide and what the resale price was.

Mr. Geddes then asked "What are we going to do about the situation where the buyer says 'I didn't read the contract but I signed it anyway.' " Mr. Lowenthal's answer is extremely interesting. "You can't pass a law requiring people to read contracts. As a matter of fact * * * the reverse situation will happen, in my opinion, with the disclosure statute. There will be less likelihood that they will read the contracts

if the salesman has this available argument, 'Well, this is all covered by law now. By law we have to put in detail what this is about in large print, etc.' But no matter how well you put it out in large print it is still complicated. * * * It won't mean a thing to some people, but to others who could understand it if they take the trouble, the fact that it is a law on record will persuade many of them that they are protected by law. Therefore they don't have to read it and that is why the other end of the picture is important—the repossession practices and deficiency right. That is very important because the real protection will come only at the end, rather than in the beginning, once you have a disclosure statute adopted. As of today you need both, obviously, but our committee felt that their twin objective, the right of repossession and the right of deficiency, must be tied in with the necessity for disclosure statutes.''

Further questioning by Mr. Thelin followed much the same lines and found Mr. Lowenthal adamant in his position that a 60 percent realization test was a fair one.

Mr. Kaiser asked if Mr. Lowenthal had any statistics which could be used as a measuring stick to determine whether 60 percent or 80 percent was a correct realization test. From Mr. Lowenthal's reply it appears that their committee based their recommendation on information received from the Legal Aid Society of New York to the effect that the New York realization test of 80 percent has not accomplished the job of protecting the people who need protection and that they felt a 60 percent test would be more reasonable. Most of the members of their committee felt that 50 percent should be the test, but they compromised on 60 percent.

Mr. Kaiser then asked if the majority of the cases of repossession and deficiency judgments reviewed by his committee had to do with automobiles, or if there were many in the other field. The answer was that the majority of the abuses are in the automobile field but that letters they received from counsel throughout the State have not been confined to automobile sales.

Chairman Unruh, at the conclusion of Mr. Lowenthal's testimony, announced that this committee had received a lengthy letter from Attorney Phil Garvey, 582 Market Street, San Francisco, which went somewhat further than Mr. Lowenthal's recommendation and recommended that all deficiency judgments be outlawed. The complete text of the letter was not read into the record.

The next witnesses to appear were Lloyd Jester, Inspector in the District Attorney's Office of Alameda County, and William Sharon, now in practice as a private attorney but who had previously been with the District Attorney's Office of Alameda County in charge of the fraud squad of that county.

From the investigations of fraudulent inducement and representations in the cases conducted by him, Mr. Jester concluded that certain groups were making a racket out of installment selling. Individuals in these groups were found to have operated under assumed names time and time again, selling at various times such items as mastex, siding, insulation, moth repellents, roofing, sewing machines, knitting machines, furniture, water softeners, carpeting, garbage disposals, carpet

sweepers, wiring and now swimming pools and patios. He pointed out that these sellers are not at all interested in the product, but are interested only in getting a contract by fair means or foul. Once the contract is obtained it is sold and the assignee quickly claims the coverage or blanket of a "holder in due course" and the rights of claim or defense of the buyer are thereby cut off.

According to Mr. Jester there are three rules followed by the fast salesman:

1. Always get the contract signed in blank.
2. Never tell the buyer the contract is going to be sold.
3. Never give the customer a copy of the contract.

Devious means are used to overcome sales resistance, such as offering a refrigerator free with the purchase of furniture and later adding the price of the refrigerator to the contract which had been signed in blank; telling the customer the cash price is the total price and later adding a large carrying charge to the unsigned contract; misrepresenting carpeting as being 100 percent wool or 100 percent nylon and substituting worthless and cheap products; promising money to the buyer with which to wipe out present debts and adding this amount to the contract but not making the promised advance. Many photostatic copies of such transactions were submitted to the committee in substantiation.

Mr. Jester told of 2,400 water softeners being sold in Alameda County alone under these methods, and both he and Mr. Sharon told of the fraudulent sale of wall-to-wall carpeting, the total of which their investigation revealed was in excess of $150,000 in a three- or four-week period. The carpet sellers were indicted and pleaded guilty to fraud. Mr. Sharon pointed out that in order to obtain an indictment of this nature it was necessary for their office to interview and investigate hundreds of witnesses and that the cost to the county was estimated at from $60,000 to $70,000.

Sufficient evidence was produced by these witnesses to establish the fact that these selling methods are not confined to the door-to-door operation, but are also carried on at a seller's place of business.

Both witnesses stated that installment selling was badly in need of regulation and made valuable contributions in the way of suggestions which have assisted in the final draft of Assembly Bill No. 500.

Mr. Bernard J. Ralph, who had been subpoenaed as a hostile witness, was next called by Chairman Unruh, and after being sworn he testified as follows:

1. He was employed by Biggee Furniture Company in their Oakland store as collection manager for approximately eight months.
2. During this time he used the nom de plume of Mr. James.
3. That he handled the customer complaints. One of the main complaints was that the customer had received a cheaper group than he had selected. He explained that, to the best of his knowledge, the customer had been shown a more expensive group but had received the less expensive articles.
4. The general practice was to tell the customer that Biggee carried their own contracts. If the customer asked the direct question they would be told "You can make your payments right here in the store." The question was left open.

5. That it was a general practice, perhaps in 95 percent of the cases, to get the customer to sign the contract in blank by saying "We'll type it in later. My girl is busy at something else." Occasionally they would fill in the contract if the customer objected to signing in blank

6. To his knowledge customers were never given copies of contracts. He was not in charge of giving out the contracts, but sometimes, in connection with a complaint, he would be told by a superior that the copy was in the mail, and would so advise the customer.

7. That it was a usual practice to tell the buyer that the cash price was the total price and to later fill in additional charges for insurance, financing, etc.

8. That he had seen customer's signatures being traced on documents by an employe in the office.

9. That they exerted considerable pressure to effect collection, and there was an intimation that he may have, at times, impersonated such officials as the police or district attorney, on the telephone. He stated they were not interested in getting the merchandise back, because it was no good * * * what they wanted was their money

10. That he was transfered from Biggee Furniture to the American Thrift Plan, the owner of which was the wife of the owner of Biggee. This thrift company purchased contracts from Biggee Furniture Company. He worked there nine months and resigned. He had no knowledge that the thrift company purchased contracts from anyone but Biggee Furniture Co

Mr. B. Charles Wamsley, Manager of the Better Business Bureau of Oakland, stated that the statement he had prepared substantially duplicated the testimony given by Mr Jester and therefore he confined his remarks to just a few items. He recounted how certain jewelry businesses would induce a customer to take out a piece of jewelry for the husband's inspection on approval and obtain the customer's signature to a slip purporting to be a receipt for the goods but which is, in fact, a conditional sales contract on the reverse side. Sometimes the conditions are not printed on the original copy which the customer gets, but does appear on the copy which the seller retains. If the customer attempts to return the article because the husband will not approve of the purchase she is told that the only way she can return it is for credit to be applied against the purchase price of a more expensive article. Another situation is that of a furniture company who has an auctioneer's license. If the furniture delivered is not that which is contracted for and is repossessed for a deficiency judgment, the seller turns it over to the auction house which he owns and only those people who own the furniture store bid and they buy it for practically nothing. Another gimmick is to obtain a down payment and withhold delivery until credit is approved. No credit check is made but the customer is turned down and is made to forfeit his deposit to cover the credit investigation cost.

Mr. Wamsley supported the efforts of this committee in preparing legislation to curb present abuses.

Mrs. Inez Gomes, 18836 Porson Ave, Castro Valley, told of her experience with the Biggee Furniture Company. She and her husband responded to a television advertisement offering a complete house full of furniture for $262. Instead of selling her the advertised set, other furniture was shown and she was induced to purchase articles at a price of approximately $700 against which they offered to allow $400 for her old furniture. The contract was signed in blank. Nothing was said about a carrying charge. She did not receive a copy, but was informed by Biggee that she owed $840 (apparently a carrying charge had been subsequently added) and no credit was given for the traded-in articles. The furniture proved defective but they obtained no satisfaction to repeated demands for an adjustment. They then refused to make payments and the furniture was repossessed. A deficiency judgment was taken, and this judgment was executed on their paid-up automobile, which in turn was sold at Marshal's sale. Evidently this sale did not bring enough to clear the deficiency judgment and $70 attorney's fees and $5.45 interest. Then a lien was placed upon their home. They then contacted Mr. Jester of the district attorney's office and through his efforts the lien was released and Biggee returned $400 to the Gomes'. Through this transaction the Gomes' family lost their old furniture, the new furniture and their car in addition to having been subjected to the discomfort of having to sleep on the floor and the mental strain which was caused.

Francis Wysong, of 332 Molino Drive, testified that she purchased a television set from Vitrionic (full name not given) for a cash price of $343.15 less an allowance for an old set traded in of $100 15, leaving an unpaid balance of $243. She signed the contract in blank, unaware that the contract was to be sold to a financing agency. When she received a payment book from the Central Credit Company she entered a protest and endeavored to cancel the transaction. She was refused. The payment book called for 18 payments of $16.18 each, a total of $290.34 which included a carrying charge of $47.34 (which is at the rate of 15.3 percent per annum time price differential, or 28.5 percent true interest). She made several payments larger than the required amount and in eight months had paid $243 the amount of the original unpaid balance. She then sought an adjustment of the carrying charge because of the prepayment. She was treated with indifference by the finance company representative but finally succeeded in obtaining a refund offer of $7.88 which she thought was too small and she has refused to make a final settlement. She fears she will be sued. She further complained that the stand on which the television was mounted was defective and sought the advice of the committee as to what action to take. Chairman Unruh suggested she contact the Better Business Bureau In response to Mr. Kaiser's question why she objected to a contract being assigned to a finance company, she stated she felt the rate of interest under these circumstances would be exorbitant. Mr. Kaiser then asked her if she would have any objection to the assignment of a contract if the finance rates were limited by law, to which Miss Wysong replied, "No, not under those circumstances. I would feel that that would be the fair thing, but I feel that under these circumstances you are at their mercy; you don't know what they are charging."

Mr. Mario Oliver, 21709 Redwood Road, Castro Valley, told of his experiences with the Great Western Furniture Company and the Purchasers Acceptance Corporation In August of 1958 he selected two bedroom sets. Delivery was made of only part of the order. The articles were not up to the standard of the articles shown him. Drawers were defective and fell apart. Bed legs were mismatched. Mattresses were torn; etc. Exchanges were evidently completed in December, but not to his satisfaction. He had signed the contract in blank, understanding that the price would be $393.23 less a down payment of $50, leaving a balance of $343.23. The payment book he received from Purchasers Acceptance Corporation indicated a time balance of $470.60 including a carrying charge of $127.37, which Mr. Kaiser calculated was an add-on charge of 22½ percent per annum or a true interest rate of about 43 percent When he asked the finance company what the charge of $127.37 was for he was told it was for insurance, but he has no evidence that insurance was issued. He is highly dissatisfied, has refused to make payments, and it appears that a lawsuit may be instituted.

Mr. Oliver was followed by Mrs. Louise Fontenot of Daly City. She testified regarding her experience with the State Home Furniture Co., of Oakland, who, in a religious program on the radio had offered a 17-jewel wrist watch and a diamond necklace for the correct answer to a question propounded in the program. She answered the question by phone and was told she had won the two articles. Subsequently a salesman called at her home to present the wrist watch and necklace, but told her she would have to buy a washing machine or something in order to get the prizes. As she needed a washing machine she agreed to buy one for either $351 or $359 (she was not certain). She and her husband both signed a "paper" calling for 24 payments of $20.56 a month. Then she received a payment book from the Northern California Thrift and learned the total amount to be paid was $497. She asked for a copy of the contract which the Thrift Company advised her they held, but never received one. She claims to have advised the seller that she was unable to pay $497 for a washing machine, and to have asked them to pick it up, but they did not. So she made her payments but fell behind at the time there were only a couple of payments remaining. She was threatened with repossession, and she again protested on the basis that she had asked that the machine be picked up but they did not do so and she thought it unfair for them to take the machine now that there were only a few payments left. She got no place, so she paid the balance of $60 plus $10 for being late on two payments. She said the wrist watch broke as soon as she got it and the necklace had no diamonds in it. The carrying charge was estimated to be at the rate of 13 percent per annum, or true interest of about 24 percent per annum. Chairman Unruh indicated that he felt the washing machine was overpriced at $351 in the first place It appears that this sale may have been obtained by fraudulent inducement.

The next testimony was given by Robert E. Nenad, M.D., 331 Paramount Boulevard, Millbrae, California. His experience was with the Hollywood Furniture Company and Fireside Thrift Company. He selected furniture which he knew was not of the highest quality but which, on delivery, turned out to be much less satisfactory than he expected. Many adjustments and exchanges had to be made. He said

he made a cursory reading of the contract but did not understand it because of the legal terms and small print Whether it contained complete disclosures was not clear in his memory. He had, however, been told that there would be an interest charge of 1 percent a month which would be cancelled if he paid in full within 90 days. He received a payment book from Fireside Thrift calling for payments of $31.26 a month for 24 months, which amounted to a total of $750.24 including a carrying charge of $236.24 which Mr. Kaiser calculated was at the rate of 23 percent per annum time price differential or 42.5 percent true interest When he asked Hollywood Furniture if there was any possibility he might exchange the furniture he was told that he could not do so until three months had elapsed. The original purchase was made in July, 1958 On October 31st he called the finance company and asked how much he would have to pay and was told $621. He thought this was too much so he contacted the seller who also told him they thought it was too much There followed negotiations between the seller and holder which resulted in an offer to cancel $35 of the carrying charge. He did not make the payoff. Mr. Kaiser estimated that if he had made the offered payoff the finance company would have earned $201.24 for four months, or 117 percent per annum true interest. In response to Mr. Kaiser's questioning it was brought out that Fireside had issued an insurance policy covering permanent disability and life and accident, but that Dr. Nenad had not contracted for this coverage, and, while no charge was made for this insurance it perhaps explained why the carrying charge was at such a high rate.

Mrs. Joseph Theroux, 121 North Carley, Campbell, California, testified regarding her experiences in connection with an order placed with the Sunnyvale Carpet and Drapery Company for wall-to-wall carpeting. She made a down payment of $75 and two subsequent payments of $34 each, a total of $143 But the carpet was never delivered. In tracing for delivery she was put off with excuses to the effect the seller was having trouble with the manufacturing company and that is why she made the payments prior to delivery. The contract was assigned to Redwood Thrift When she learned that Redwood Thrift was in trouble she investigated and found that Sunnyvale Carpet had skipped the country with the money received from the finance company. The conservator for Redwood Thrift, appointed by the Commissioner of Corporations, is suing for the balance of $340 unpaid on the contract. The contract contains a clause in it whereby the buyer acknowledges delivery and acceptance of the property. (This has every earmark of collusion between the seller and the finance company.)

The testimony of Misses Elva D. Clay and Betty Davis were in connection with separate purchases made at the Hollywood Studio Furniture Company, in which the circumstances were substantially the same except for the kind of merchandise purchased. Each of these girls bought articles having a cash price of $169.95 and made down payments of $15. They were induced to sign blank contracts. When they asked where they should make their payments they were told payment books would be mailed to them They gathered the impression they were to make payments at the store, so, when they did not receive payment books they tried to make payments at the store but were told the store could not take the payments as they did not have the con-

tracts anymore. They were also supposed to receive copies of the contracts but they were not forthcoming. Shortly after the first payment was due, telegrams were received by them from Fireside Thrift saying if they did not make the payments their wages would be attached. Miss Clay outlined the following events which apply to both witnesses. She consulted the advisory counsel for their employer who referred them to a vice president. This executive tried to obtain satisfaction from both the seller and holder without success and then gave the girls a day off in which they might reach an adjustment with the holder. They made a payment and demanded a copy of the contract to no avail. Later, through the intervention of the Better Business Bureau, they did receive contract copies which had every evidence of having been completed after having been signed. According to the contracts they were each charged with $12 sales tax (which is in excess of a normal tax of 4 percent), insurance of $30 for which they did not contract and $59 carrying charge of which they were unaware. As result of these negotiations both girls received duplicate payment books from the holder, but when they asked for insurance policies they were requested to sign a "lost policy release." They refused because they had never received a policy and asked that the insurance be canceled, which apparently was not done. They reported the situation to Better Business Bureau, but have continued making payments for what they considered a bad experience.

Mrs. Carmen Souza, 467 Third Avenue, San Francisco, told of an experience with a furniture company (whose name was not clearly recorded) regarding an unfair rebate for prepayment. The contract was for $375 plus carrying charge of $102.36 (13.75 percent per annum) for 24 months. At the time of executing the contract she was informed that a rebate would be made if payment was made prior to the termination date, so in seven months she offered to make full payment and was told the amount of rebate would be $16.32. She had figured that the rebate should be in the neighborhood of $78. They reported to the Better Business Bureau but wound up paying what the seller demanded. Mr. Kaiser calculated that the seller earned $87 for seven months financing or at the rate of 77½ percent true interest.

Mrs. Souza expressed amazement that they would have been given as much credit as freely as they were. She said they were newcomers to California, had no credit rating here, but nevertheless at one time they had as many as six contracts with payments as high as $200 a month She wondered how business could do things like this? Mr. Geddes commented that credit is almost forced on the buyers.

Mr Geddes suggested that Mr. Kaiser do some research into the laws governing lending agencies to determine if there were any regulations which set a ceiling on rates to be charged and the method of making rebates. Mr. Kaiser answered that he had investigated this phase and had found that personal property brokers and industrial loan companies were regulated as to rates on loans, but as these regulations set rates based on the reducing balance of the loan no rebate provisions were embodied in the law The conclusion that legislation designed to regulate rates, disclosures and rebate formulae is very much needed.

Chairman Unruh adjourned the hearing at 4.55 p.m.

PART TWO

INDUSTRIAL LOAN LAW

FINDINGS AND CONCLUSIONS

On November 19 and 20, 1958, a two-day public hearing was held in Room 115, State Building, Los Angeles by the Subcommittee on Lending and Fiscal Agencies to examine into the reasons for the failure of the Equitable Plan Company of Los Angeles and to determine if any changes or revisions of the Industrial Loan Law, Division 7, Financial Code were desirable in order to protect investors in so-called "investment certificates" from suffering future losses such as appear inevitable as the result of this specific failure.

Participating in this hearing were:

Attorneys:

C. E. H. McDonnell, Co-attorney for the Co-trustees of Equitable Plan Co.
Louis A Sackin, representing the Thrift Savers Committee of Certificate Holders in Equitable Plan Co.
Albert Spar, representing Equitable Plan Co, in proceedings in the Federal Court.
Fredrick J. Kling, Co-attorney for Co-trustees of Equitable Plan Co.

Equitable Plan Co Representatives

Murray Ferguson, Co-trustee for Equitable Plan Co.
W. H Keenan, Accountant, Equitable Plan Co

Certificate Holders in Equitable Plan Co.

A. K. Taber
Dorothy B. Thompson
Beatrice V. Prober

Division of Corporations

J. A. Metzler, Chief of the Finance Companies Bureau
Donald A. Pearce, Assistant Commissioner

Legislative Counsel

Bernard Czesla, Deputy

Staff Members

Arthur E. Kaiser, Consultant
Marion Cerrell, Secretary

The chairman called the meeting to order at 10.00 a.m. on November 19, 1958. The hearing was continued on November 20, 1958. Members present were Messrs. William Munnell, Don Mulford, Robert Crown, Ernest Geddes and Chairman Jesse M. Unruh.

Testimony of witnesses developed the following:

IN RE: EQUITABLE PLAN COMPANY

1. *Ownership*

Prior to 1953 this company was owned by Sydney and Sylvia Brown and operated successfully. They were indulging, however, in a practice frowned upon by the Division of Corporations, which may be termed a two-company operation. In addition to Equitable, the Browns owned the State Investment Company. This latter company purchased contracts from retail sellers at a substantial discount and resold them to Equitable at a smaller discount under a repurchase agreement and an additional guarantee by the Browns. The value of this paper appeared, in the eyes of the Commissioner to be of questionable value, and because

of this and other unfavorable factors the commissioner caused them to cease operating under this plan in 1951-52. In 1953 the Browns sold their interest in Equitable to a newly formed corporation with headquarters in New York, known as California Investment Company. From information submitted to the commissioner it appeared that the principals of California Investment Company were individuals of good reputation and substantial financial responsibility.

Subsequent developments, however, disclosed that California Investment Company was purely a blind for a group of financial raiders who used Equitable for the purpose of making improvident loans to and purchasing choses in action from firms whose assets were being siphoned off in what appears to be a multimillion dollar fraud.

These manipulations were so cleverly managed that audits failed to disclose them until too late, and even to this date all of the manipulations have not been untangled.

The principals involved in this tragedy, which has resulted in losses of possibly $7,000,000 to certificate investors in Equitable, and in other losses to stockholders in various other corporations which is estimated may exceed $50,000,000, are the subjects of investigation and suits in New York and elsewhere throughout the United States.

Equitable Plan Company is now in the hands of Co-trustees Murray Ferguson and A. T. Perkins, appointed by Judge Harrison of the Federal District Court in Los Angeles for the purpose of reorganizing the assets of Equitable under Chapter 10 of the Bankruptcy Act. Prospects for such a reorganization are problematical.

2. *Resolution*

At the close of the hearing Chairman Unruh entertained a motion made by Assemblyman Munnell and seconded by Assemblyman Mulford that this committee write to the United States Banking and Currency Committee requesting them to conduct a thorough investigation of the financial manipulations of the present ownership of the Equitable Plan Company. The motion was passed by unanimous voice vote and the following resolution has been prepared and mailed to the parties therein designated.

The Failure of Equitable Plan Company

November 20, 1958

WHEREAS, The Equitable Plan Company of Los Angeles, California, operated as an Industrial Loan Company under the provisions of Division 7 of the Financial Code of the State of California; and

WHEREAS, Said Equitable Plan Company had outstanding indebtedness to investment certificate holders in excess of $9,000,000 at the time they were suspended by the Commissioner of Corporations; and

WHEREAS, Equitable Plan Company has been placed in receivership under Chapter 10 of the Bankruptcy Act on Corporate Reorganizations with the Honorable Benno M. Brink sitting as referee and special master; and

WHEREAS, It appears that investment certificate holders are faced with the possibility of losing the majority of their funds invested in Equitable Plan Company; and

WHEREAS, The facts determined in hearings held by the Commissioner of Corporations, the referee in bankruptcy, and in various court proceedings all tend to indicate that this loss to investment certificate holders is the result of an organized scheme on the part of a group of speculators and financial manipulators to siphon

off and divert the assets of said Equitable Plan Company to their own personal gain to the detriment of certificate investment holders of Equitable Plan Company; and

WHEREAS, This same group of speculators has, in the past, and may still be engaged in similar gross mismanagement and speculations in connection with numerous other corporations and insurance companies; and

WHEREAS, The operations of this group have been interstate and possibly international; and

WHEREAS, All evidence seems to indicate that interstate fraud has been committed; now, therefore, be it

Resolved by the Subcommittee on Lending and Fiscal Agencies of the Assembly Interim Committee on Finance and Insurance of the California State Legislature, That the Committee on Banking and Currency of the United States Senate is respectfully requested to take cognizance of the contents of this resolution and to make a thorough investigation of the financial manipulations of said group of speculators and to take such other action in connection therewith as may be warranted; and be it further

Resolved, That a copy of this Resolution be sent to the President and Vice President of the United States, to the Chairman of the Committee on Banking and Currency of the United States Senate, and to each member of the Congress representing the State of California.

IN RE: DEFICIENCIES IN PRESENT LAW

1. *Formation of an Industrial Loan Company*

No license is at present required, nor is the commissioner given the power by law to investigate the organizers as to their qualifications and experience or ability to operate successfully this type of quasi-banking business.

2. *Capital Stock Requirements*

In view of present economic conditions and the trend toward suburbanization adjacent to large cities, the present requirements based on population are not adequate.

3. *Changes in Personnel*

The commissioner has no authority by law to investigate or approve the appointment of new officers or managers.

4. *Convenience and Advances Provision*

There is no provision requiring that the commissioner determine that the public convenience and advantage will be promoted by the establishment of the industrial loan company and for branch offices.

5. *Restrictions on Loans*

These are too liberal

6. *Personal Responsibility in Connection With Loans*

There is no provision that under certain conditions the loaning officer be held personally liable for losses.

7. *Out-of-state Loans*

These are not restricted.

8. *Ratio of Outstanding Certificates to Capital*

Needs strengthening, particularly as to the exclusion of "Undivided Profits" as a part of total capital. Also "Unimpaired" is omitted from the definition of "Capital" in the present law.

9. *Reserve Requirements*

The commissioner does not have sufficient authority to properly regulate the method to be used in making charge-offs and setting up reserves against receivables.

10. *Investment Certificates*

The law contains no specific prohibitions against advertising or making representations that the industrial loan company is a bank or that investments in certificates are insured in the same manner as for banks.

11. *Penalties*

The only penalty provision in the present law is a general one making violations a misdemeanor. Inasmuch as industrial loan companies operate in a quasi-banking capacity in that they are responsible to investment certificate holders in much the same manner as are banks responsible to their depositors, the penalty provisions should be substantially the same as in the banking laws.

IN RE: GENERAL

It was the unanimous opinion of witnesses that impairment of capital resulted from poor management due to inexperience, irresponsibility or disregard of the provisions of the law The outstanding faults are:

1. *Buying Contracts* from irresponsible dealers
In order to create volume such contracts are purchased at large discounts. Costs of collection and losses from bad debts become excessive.

2. *Lowering of Credit Standards*
Because of lack of restrictions on the rate of time price differential chargeable in contracts, poor operators will buy what is known as "high-rate" paper in which the debtor does not have acceptable credit standing This again contributes to high costs and credit losses

3 *Exorbitant Salaries* to executives needs no comment

4. *Resistance to Charging Off Losses* at the time they become apparent. Weak operators often set up reserves which are too low, but even under conditions when the reserves are more substantial they resist charging off accounts which have every earmark of being uncollectable. The result on a balance sheet is misleading both to the examiner and to the investing public for no receivable should be shown which does not have good sound value behind it.

5 *The Cure* lies in placing more responsibility in the hands of the commissioner in connection with the investigation of the qualifications of officers, directors and managers, and in establishing sound rules for charge-offs and reserves, and also in providing penalties which will discourage the making of large improvident loans

EXPLANATION OF PROPOSED LEGISLATION TO CORRECT DEFICIENCIES

The proposed amendment included in this report has been prepared by Legislative Counsel for future consideration and action.

Sections 18200 through 18200.4. The revision of Section 18200 and the addition of Sections 18200 1, 18200.2, 18200 3 and 18200.4 are patterned after sections in the banking law, namely Sections 360, 361 and

362 of the Financial Code and are for the purpose of insuring stronger companies entering the industrial loan field. Under the law as it now exists the Commissioner is not required to investigate the character, fitness and ability of the personnel of an industrial loan company, etc., until after a charter has been granted, and only then if application is made for a permit to issue investment certificates.

Section 18203. This amendment increases paid-in capital requirements from a minimum of $50,000 if the corporation is transacting business in a city of less than 50,000 population, or a minimum of $100,000 if transacting business in city of more than 50,000 population, to a minimum of $300,000 regardless of population. This will insure that companies entering the industrial loan field are adequately financed.

Section 18412. In several instances substantial losses have been incurred by an industrial loan company which made loans to or purchased obligations from officers, directors or shareholders of another industrial loan company, or a company in which these people are interested. This amendment strengthens the present section by more specific definition and also makes officers, directors or stockholders who violate this amended section personally liable for losses resulting from such action.

Section 18413 The reason for this amendment can be best explained in the words of John A. Metzler, Chief of the Finance Companies Bureau, Division of Corporations, "Our experience with Equitable Plan Company has demonstrated the danger of permitting an industrial loan company to make unrestricted loans or purchase contracts out of the State. * * * neither the obligors nor the persons from whom the obligation is purchased are residents of the State of California and do not have a local place of business, so then the problems of proper supervision of the company and the review of its financial condition become very difficult. Delays in obtaining information as to obligors may become very serious. And the problems of enforcing payment, as is now being experienced by the trustees in Equitable Plan, is increased as well as is the cost of enforcement because everything has to be done outside the State." This amendment places reasonable restrictions on such transactions and also provides for the personal liability of officers and directors which should be salutary in obtaining their co-operation with this section of the law.

Section 18420-18425, inclusive. The intent of these sections is to prevent overextension and to enable the Commissioner to make investigations which will insure that the public convenience and advantage will be promoted and that capable management will be provided to insure a successful operation The figure of $300,000 additional paid-up capital for each branch is an exploratory figure subject to further review. A penalty of $100 a day is collectable by the State for every day a branch office is maintained with the approval of the Commissioner having first been obtained.

Section 18614. Although suggestions have been made that reductions be made in the ratio of investment certificates to total capital such a change was not considered at this time, except for the elimination of "undivided profits" from the calculation of aggregate capital. Undivided profits is a fluctuating account from which dividends are paid and losses are sustained. No hardship will be caused by this provision

as all that is required is that a bookkeeping transfer be made from "undivided profits" to "paid-in surplus" in order to maintain the required ratio. The result will be a much sounder financial position, which will be further aided by the addition of the word "unimpaired" in defining "capital" and "paid-in surplus."

Section 18616. The commissioner is required to determine whether the capital of an industrial loan company is unimpaired or impaired. The collectibility of outstanding loans and receivables is a major factor in making this determination. To overcome the resistance to making charge-offs and establishing adequate reserves which now exists the power of the commissioner to establish reasonable standards and rules should be increased, and this is accomplished by this amendment.

Sections 18607.1 and 18625. These in effect are companion provisions. They afford the commissioner the opportunity to investigate new personnel and to determine that the company will have continuing competent management. Such a provision may have prevented much of the damage done to Equitable Plan Company by a succession of managers.

Section 18617.1. This addition to the code needs no comment.

Section 18626 needs no comment.

Section 18668. Under the law large secured and unsecured loans could be made and were made, particularly in the case of Equitable Plan Company, without proper security or substance. This amendment strengthens the law and will help make sounder companies by placing a dollar limitation on the size of the loans permitted and by increasing the market value of collateral from 115 percent to 125 percent. The $2,000 limitation is an exploratory figure subject to further study and determination.

Sections 18668.1 and 18668.2 are self-explanatory.

Section 18818. This section gives to the Commissioner of Corporations the same power to summarily take possession of the property and business of an industrial loan company as is vested in the Bank Commissioner by the banking laws. Under the existing law the commissioner must first issue an order to discontinue unsafe and injurious practices or to make good impairment of capital, etc., following which hearings must be held before the order is made final. Time is of the essence, and the delays which inevitably follow under the present procedures may run into months during which time the affairs of the company can go from bad to worse. Because industrial loan companies are in a sense analogous to banks and the State has the obligation to protect the investments of the public in these institutions as far as is reasonably possible, this provision should be enacted.

Sections 18818.1 and 18818.2 afford protection to the industrial loan company against injudicious actions of the commissioner.

Sections 18850 to 18858, inclusive, deal with criminal violations and provide that officers, directors or employees are guilty of a felony or a misdemeanor under certain circumstances. These sections are similar to provisions in the Banking Act and will put teeth in the Industrial Loan Law if enacted. At present the only punitive provision in the Industrial Loan Law is a general provision that violation of the law is a misdemeanor.

An act to amend Sections 18200, 18203, 18412, 18413, 18614, 18616 and 18668 of the Financial Code, to add Sections 18200.1, 18200.2, 18200.3, 18200.4, 18607.1, 18617.1, 18625, 18626, 18668.1, 18668.2, 18818, 18818.1, and 18818.2 to said code, to add an article heading to Chapter 3 of Division 7, to add an article heading and new Article 2 (commencing with Section 18420) to Chapter 3 of Division 7 of said code, to add Chapter 6 (commencing with Section 18850) to Division 7 of said code, and to repeal Sections 18204, 18205, 18206, 18404, 18414, 18415, and 18818 of said code, relating to industrial loan companies.

The people of the State of California do enact as follows:

SECTION 1. Section 18200 of the Financial Code is amended to read:

18200 ~~Corporations may be incorporated under this division in the same manner as corporations are incorporated under Division 1, of Title 1, of the Corporations Code, except as otherwise provided in this division.~~ *When authorized by the Commissioner of Corporations, as provided in this chapter, a corporation may be formed by three or more persons in accordance with the laws of this State for the purpose of conducting an industrial loan business.*

SEC. 2. Section 18200.1 is added to said code, to read:

18200.1 The request for authority to organize and establish a corporation to engage in the industrial loan business shall be set forth in an application in such form and containing such information as the commissioner may require and shall be accompanied by a filing fee of $250.

SEC. 3. Section 18200.2 is added to said code, to read:

18200.2. Upon the filing of an application, the commissioner shall make or cause to be made a careful investigation and examination relative to the following:

(a) Character, reputation and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed industrial loan company.

(b) The need for industrial loan facilities or additional industrial loan facilities, as the case may be, in the community where the proposed industrial loan company is to be located, giving particular consideration to the adequacy of existing industrial loan facilities and the need for further industrial loan facilities in the community.

(c) The ability of the community to support the proposed industrial loan company, giving consideration to (1) the competition offered by existing industrial loan companies and other financial institutions; (2) the previous industrial loan history of the community; and (3) the opportunities for profitable employment of industrial loan funds as indicated by the average demand for credit, the number of potential investors, the volume of industrial loan transactions and the business and industries of the community with particular regard to their stability, diversification and size.

(d) The character, banking, industrial loan or finance company experience and business qualifications of the proposed officers and managers of the industrial loan company.

(e) The character, financial responsibility, business experience and standing of the proposed stockholders and directors.

(f) Such other facts and circumstances bearing on the proposed industrial loan company as in the opinion of the commissioner may be relevant.

SEC. 4 Section 18200.3 is added to said code to read:

18200.3 The commissioner may give or withhold his approval of the application in his discretion, but he shall not approve the application until he shall ascertain to his satisfaction:

(a) That the public convenience and advantage will be promoted by the establishment of the proposed industrial loan company.

(b) That conditions in the locality in which the proposed industrial loan company will transact business afford reasonable promise of successful operation.

(c) That the industrial loan company is being formed for no other purpose than the legitimate objectives contemplated by this division.

(d) That the proposed capital structure is adequate.

(e) That the proposed officers and directors have sufficient banking, industrial loan or finance company experience, ability and standing to afford reasonable promise of successful operation.

(f) That the applicant has complied with all the applicable provisions of this division.

SEC 5. Section 18200 4 is added to said code to read:

18200.4. Upon the approval of the commissioner, a corporation may be incorporated under this division in the same manner as corporations are incorporated under Division 1 (commencing with Section 100), Title 1 of the Corporations Code, except as otherwise provided in this division.

SEC. 6. Section 18203 of said code is amended to read:

18203 The capital stock of any corporation incorporated under this division shall not be less than ~~the following amounts:~~ *three hundred thousand dollars ($300,000).*

~~(a) Fifty thousand dollars ($50,000) when the corporation is transacting business in any city having a population of less than 50,000 inhabitants.~~

~~(b) One hundred thousand dollars ($100,000) when the corporation is transacting business in any city having 50,000 or more inhabitants.~~

SEC 7. Sections 18204, 18205 and 18206 of said code are repealed.

SEC. 8. An article heading is added to Chapter 3, Division 7, of said code to read:

Article 1. General

SEC 9. Section 18404 of said code is repealed

SEC. 10 Section 18412 of said code is amended to read:

18412. No industrial loan company shall directly or indirectly make any loan to, or purchase a contract or chose in action from ~~, its majority stockholder, or any officer or director of such company, either for himself or as agent or as partner of another.~~ *:*

(a) A person who is an officer, director, or holder of record or beneficially of 10 percent or more of the shares of the industrial loan company

(b) A person in which an officer, director or holder of record or beneficially of 10 percent or more of the shares of the industrial loan company directly or indirectly is financially interested.

(c) A person who acquired such contract directly or indirectly or through intervening assignments from a person described in (a) or (b) hereof.

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section is personally liable for any loss resulting to an industrial loan company from such loan or contract

SEC 11 Section 18413 of said code is amended to read:

18413. ~~No industrial loan company shall make a loan to, or purchase a contract or chose in action from any corporation of which a majority of the stock is owned or controlled individually or collectively by any one or more of the directors, officers, or majority stockholder of such company, except with the consent of the commissioner.~~ *No industrial loan company may make any loan to, or purchase or discount bona fide trust receipts, secured or unsecured, choses in action, chattel mortgages or conditional sales contracts from persons who do not reside or have a place of business in the State of California, unless the loan or purchase complies with the following conditions:*

(a) If the loan or thing purchased is unsecured, then only if the loan or thing purchased bears the endorsement of a person who resides or has a place of business in the State of California

(b) If the documents and security for the loan or the thing purchased or discounted are in California at the time the loan or purchase or discount is made and are thereafter kept in California while the loan or thing purchased or discounted remains unsatisfied.

If a loan is made or other thing is purchased or discounted in violation of this section, or of Section 18668, the officers, directors and shareholders of the industrial loan company participating therein shall be personally liable for any loss suffered by the industrial loan company by reason thereof.

SEC. 12. Sections 18414 and 18415 of said code are repealed.

SEC. 13. Article 2 (commencing with Section 18420) is added to Chapter 3, Division 7 of said code to read:

Article 2. Branch Offices

18420. When authorized by the commissioner as provided in this division, an industrial loan company, pursuant to a resolution of its board of directors, may establish and maintain one or more branch offices within the State.

18421. The request for authority to establish a branch office shall be set forth in an application in such form and containing such information as the commissioner may require and shall be accompanied by an application fee of one hundred dollars ($100) for each new branch office.

18422. Before opening a branch office an industrial loan company shall have and shall thereafter maintain as long as the branch is operated, for each branch so opened, paid-up capital in addition to paid-up capital required by Chapter 2 of this division in the amount of three hundred thousand dollars ($300,000).

18423. The commissioner may give or withhold his approval of an application in his discretion but he shall not approve an application until he has examined into the matters referred to in subdivisions (b), (c), and (f) of Section 18200.2 and until he has ascertained to his satisfaction that the following are true:

(a) That the public convenience and advantage will be promoted by the establishment of the proposed branch office.

(b) That the industrial loan company has the capital required by this division.

18424. When the commissioner has approved an application for permission to establish a branch office and the applicant pays to the commissioner an additional fee of one hundred dollars ($100) for a certificate of authorization to transact business, the commissioner shall issue a certificate in duplicate authorizing the opening and operation of the branch office and specifying the date on which and the conditions under which it may be opened and the place where it will be located. The commissioner shall cause one copy to be transmitted to the applicant and the other copy to be filed in the department.

18425. The failure of an industrial loan company to open and operate a branch office within six months after the commissioner approves the application therefor shall automatically terminate the right of the industrial loan company to open the branch office except that the commissioner, for good cause on written application made before the expiration of the six months' period, may extend for additional periods not in excess of six months each the time within which the branch office may be opened.

18426. An industrial loan company which opens a branch office without first obtaining the approval of the commissioner shall forfeit to the people of the State the sum of one hundred dollars ($100) for every day during which the branch office is maintained without authority.

18427. When authorized by the commissioner an industrial loan company may change the location of a branch office from one location to another in the same vicinity.

18428. Every industrial loan company shall keep posted in a conspicuous place in each branch office the certificate issued by the commissioner permitting the operation of the branch office.

18429. An industrial loan company which maintains a branch office or branch offices shall give to each branch office maintained by it a specific designation by name or number and include in the designation the word "branch" or the word "office" and shall prominently display the designation at the place of business of the branch

18430. With the prior written approval of the commissioner an industrial loan company may close or discontinue the operation of any branch office provided public notice thereof is given in such manner as the commissioner directs at least 90 days before the date of closing or discontinuance.

SEC. 14. Section 18614 of said code is amended to read:

18614. No industrial loan company shall have outstanding at any time its investment certificates in an aggregate sum in excess of 10 times the aggregate amount of its paid-up *and unimpaired* capital, *and its unimpaired and paid-in* surplus, ~~and undivided profits,~~ exclusive of those hypothecated with the company issuing them.

SEC. 15. Section 18616 of said code is amended to read:

18616. The commissioner may require ~~companies~~ *an industrial loan company to charge off delinquent loans and contracts and* to establish and maintain reasonable reserves for loans made ~~: trust receipts, choses in action, chattel mortgages conditional sales contracts, contracts, accounts receivable, or commercial paper purchased~~ *and contracts purchased and discounted* in accordance with ~~standard accounting and~~ *sound* business practice*s* ~~prevailing~~ *found to exist* in the banking business. *The commissioner may by regulation:*

(a) Establish reasonable standards for the classification of loans and contracts as to their delinquency or currency;

(b) Prescribe the conditions requiring the writing off of delinquent loans, contracts or accounts receivable;

(c) Establish the basis upon which reasonable and adequate reserves shall be created and maintained.

SEC. 16. Section 18607 1 is added to said code to read:

18607.1. No industrial loan company shall appoint any officer or manager who does not have the qualifications required by Sections 18200.3 and 18607.

SEC. 17. Section 18617.1 is added to said code, to read:

18617 1. An industrial loan company shall not use any advertising nor make any representations which indicate, infer or might lead a person to believe that the company is a bank or that investment certificates are insured in the same manner as deposits in a bank or other type of savings institution unless such is the fact

SEC. 18. Section 18625 is added to said code, to read:

18625. Every industrial loan company shall notify the commissioner of every change in the officers, directors and managing personnel of the company and of each branch of the company within 15 days of such change. Such report shall include a complete identification of each person assuming any such office or duties and such other information as the commissioner shall prescribe. The commissioner may by regulations prescribe the positions or duties which will be deemed to be managing personnel within the meaning of this section.

SEC. 19. Section 18626 is added to said code, to read:

18626. A holding company may not be used for the purpose of evading or avoiding any of the provisions of this division.

SEC. 20. Section 18668 of said code is amended to read:

18668. ~~No industrial loan company shall hold at any one time the obligation or obligations of any person as primary debtor, in excess of 5 percent of the amount of the capital stock of such industrial loan company actually paid in and unimpaired and 5 percent of its unimpaired surplus fund. If such obligations are secured by collateral of a market value at no time less than 115 percent of the face amount of the obligations an industrial loan company may hold such obligations to the extent of 20 percent of such capital and surplus.~~ *A company may not make unsecured loans to or hold the unsecured obligations of any one person as primary obligor in an aggregate amount in excess of $2,000, or 5 percent of the unimpaired capital of the company, whichever is the lesser. If such loans or obligations exceed $2,000, or 5 percent of the unimpaired capital of the company, whichever is the lesser, they must be secured by collateral of a market value of at least 125 percent of the*

amount owing on the obligations and may not, in any event, exceed in the aggregate 10 percent of the unimpaired capital of the company.

SEC. 21. Section 18668.1 is added to said code to read:

18668.1. An obligation shall not be deemed secured by personal property or collateral unless the personal property or collateral held as security is of a kind which has not been declared ineligible by the commissioner. The commissioner may by general regulation declare any particular kinds and classes of personal property ineligible as security. An obligation shall not be deemed secured by real property unless the obligation and the lien securing the same conform to the provisions of Sections 18406.1 and 18668. Secured and unsecured loans shall be represented by separate notes and shall not be combined in any way within one note or notes.

SEC. 22. Section 18668.2 is added to said code, to read:

18668.2. An industrial loan company shall not lend in the aggregate more than 5 percent of its capital upon the security of the stock of any one corporation and such stock may not exceed 10 percent of the outstanding stock of said corporation, or upon the security of the bonds of any one obligor except bonds of the United States or for the payment of which the credit of the United States is pledged, bonds of the State of California, or for the payment of which the credit of the State of California is pledged, and bonds of any county, city, metropolitan water district, school district, or irrigation district of the State of California which qualify as investments for savings bonds.

SEC. 23. Section 18818 of said code is repealed.

SEC. 24. Section 18818 is added to said code, to read:

18818. Whenever it appears to the commissioner that:

(a) The capital of any industrial loan company is impaired;

(b) Any industrial loan company has violated its articles of incorporation or any law of this State;

(c) Any industrial loan company is conducting its business in an unsafe or unauthorized manner;

(d) Any industrial loan company refuses to submit its books, papers, and affairs to the inspection of any examiner;

(e) Any officer of any industrial loan company refuses to be examined upon oath touching the concerns of such industrial loan company;

(f) Any industrial loan company has suspended payment of its obligations;

(g) Any industrial loan company is in such condition that it is unsound, unsafe, or inexpedient for it to transact business; or

(h) Any industrial loan company neglects or refuses to observe any order of the commissioner made pursuant to Section 18814 of this code unless the enforcement of such order is restrained in a proceeding brought by the industrial loan company;

the commissioner may forthwith take possession of the property and business of such industrial loan company and retain possession until such industrial loan company resumes business or its affairs be finally liquidated as herein provided. Such industrial loan company, with the consent of the commissioner, may resume business upon such conditions as he may prescribe.

SEC. 25. Section 18818.1 is added to said code, to read:

18818.1. Whenever the commissioner has taken possession of the property and business of any industrial loan company, such industrial loan company, within 10 days after such taking, if it deems itself aggrieved thereby, may apply to the superior court in the county in which the head office of such industrial loan company is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing and a determination of the facts upon the merits may dismiss such application or enjoin the commissioner from further proceedings and direct him to surrender the property and business to such industrial loan company.

SEC. 26. Section 18818.2 is added to said code, to read:

18818.2. An appeal may be taken from the judgment of the court by the commissioner or by the industrial loan company in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the court operates as a stay of the judgment. No bond need be given if the appeal be taken by the commissioner but if the appeal be taken by the industrial loan company a bond shall be given as required by Section 943 of the Code of Civil Procedure.

SEC. 27. Chapter 6 (commencing with Section 18850) is added to Division 7 of said code, to read:

CHAPTER 6. PROHIBITED PRACTICES AND PENALTIES

18850. Any director, officer, or employee of a company who asks for or receives, or consents or agrees to receive any commission, emolument, or gratuity or any money, property, or thing of value for his own personal benefit or of personal advantage for procuring or endeavoring to procure for any person any loan from such company, or the purchase or discount of any note, contract, or other obligation by such company, is guilty of a felony.

18851. Any director, officer or employee of any company who knowingly receives or possesses himself of any of its property otherwise than in payment of a just demand, and with intent to defraud, omits to make or cause to be made a full and true entry thereof in its books and accounts or concurs in omitting to make any material entry thereof, is guilty of a felony.

18852. Any director, officer, or employee of a company who knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or having the custody of its books willfully refuses or neglects to make any proper entry in such books as required by law, or to exhibit or allow the same to be inspected or extracts to be taken therefrom by the commissioner or his deputies or investigators, is guilty of a felony.

18853. No director, officer, or employee of a company shall purchase, directly or indirectly, or be interested in the purchase of, any of the company's assets for an amount less than the then current market value thereof. Every person violating this section shall be liable to the company for twice the market value of the assets so purchased.

18854. Every director of a company who:

(a) In case of the fraudulent insolvency of such company, shall have participated in such fraud; or

(b) Willfully does any act as such director which is expressly forbidden by law or willfully omits to perform any duty imposed upon him as such director by law, is guilty of a misdemeanor.

The insolvency of a company is deemed fraudulent for the purposes of this section, unless its affairs appear upon investigation to have been administered clearly, legally, and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

18855. A director, officer, or employee of a company, who concurs in any vote or act by which it is intended to make a loan or purchase a contract in violation of this law is guilty of a misdemeanor.

18856. Any director, officer, or employee of any company, who makes or maintains, or attempts to make or maintain, a deposit of such company's funds with any other person on condition, or with the understanding, express or implied, that the person receiving such deposit make a loan or advance, directly or indirectly, to any director, officer, or employee of the company so making or maintaining or attempting to make or maintain such deposit, is guilty of a misdemeanor.

18857. Every officer or employee of any company who sells investment or thrift certificates knowing that the company is insolvent, is guilty of a misdemeanor.

18858. Any director, officer, agent, or employee of any company, who willfully makes a false or untrue entry in any book or record or in any report, tag, or statement of the business, affairs, or condition, or in connection with any transaction of such company, with intent to deceive any officer, director, or employee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or any of its affairs or transactions, or to any public officer who has authority to examine into its affairs or transactions, or who, with like intent, willfully omits to make a new entry of any matter particularly pertaining to the business, property condition, affairs, transactions, assets or accounts of such company in any book, record, report, statement, or tag of such company, or who with like intent alters, abstracts, conceals, or destroys any book, record, report, statement, or tag of such company made, written, or kept, or required to be made, written, or kept by him or under his direction, is guilty of a felony.

APPENDIX

CAPITAL IMPAIRMENT OF THE EQUITABLE PLAN COMPANY LOS ANGELES

Prepared by Arthur E. Kaiser, Committee Consultant

A. CONCLUSIONS

1. The failure of this industrial loan company was the direct result of an organized plan or scheme on the part of an eastern group of investors to siphon off and divert the assets of this company to their own personal gain and to the detriment of investors in "Certificates of Investment."
2. That violations of the provisions embodied in the Financial Loan Law of the State of California became apparent to the Commissioner of Corporations as early as March of 1955 and that there was an undue delay between this date and late 1957 in conserving the assets of the company.
3. That this delay was due in part, to the clever manner in which the principals behind Equitable gave assurances to discontinue unsafe and injurious practices and made partial repairment of capital by an additional investment of $400,000.

B. CHANGES IN OWNERSHIP AND MANAGEMENT

1. Prior to 1953—All outstanding shares were owned by Sidney and Sonia Brown of Los Angeles. (Under their management the company was successfully operated.)
2. October, 1953—The Browns sold all their stock to California Investment Company, a Delaware corporation, whose shares were represented to be all owned by Ruby Schinasi.
   a. Other officers and directors of California Investment Company, who were to be directors of Equitable, were:

Joseph W. Crosby	Claire V. Goodwin
Virgil D. Dardi	William D. Lillie
James D. Garibaldi	Walter P. Smith

   b. One Lowell M. Birrell, a New York attorney, appears in the background and appears to be the "brains" behind the manipulations which followed the reorganization in 1953.
3. 1953 to March, 1955—J. M. O'Rourke was manager. (He had been manager for the Browns.)
4. March, 1955, to May, 1956—Joseph D. Blau and Joseph L. Seltzer acted as comanagers.
5. May, 1956, to February, 1957—Harry T. Slavin was in charge.
6. February 1, 1957—Elliot Berkwit became president and acted in this capacity and as manager until the conservator was appointed.
7. January, 1958—A. T. Perkins appointed as conservator by Commissioner of Corporations.

8. May, 1958—Murray Ferguson and A. T. Perkins appointed as co-trustees in proceedings under Chapter 10 of the Bankruptcy Act. (Blau, Seltzer, Slavin and Berkwit appear to have been henchmen of Birrell and under his domination. One other party, a Leon Drezner appears to have stepped up the practice of making questionable loans during the period May, 1956, to February, 1957.)

C. COMMENTS ON LOANS AND RESERVES

1. At June, 1955, loans made to companies in which Birrell and Dardi were interested, amounted to $1,211,000.
2. As the result of a hearing held by the Commissioner of Corporations in April, 1955, these loans were reduced, but at April, 1957, there still remained unpaid $441,773.21.
3. Subsequent to the hearing in April, 1955, and as a result of arrangements made at that time, Mrs. Schinasi paid in to the company $400,000 to make good the lack of adequate reserves.
4. From May, 1956, to December 31, 1957, loans of this type increased to $5,846,325.88.

D. ORDERS AND HEARINGS OF THE COMMISSIONER

1. March, 1955—Order to discontinue unsafe and injurious practices pursuant to Section 18815 of the Financial Code.
2. April, 1955—Hearing commenced on that order.
3. October, 1955—Hearing re permit to issue additional investment certificates.*
4. Spring, 1956—Informal conference in the nature of a hearing objecting to high delinquency on contracts.*
5. June 28, 1957—Order to discontinue unsafe and injurious practices.
6. July 2, 1957—Order to comply with the law and to make good impairment of capital amounting to $4,722,168.91.
7. August 6, 1957, to and including October 21, 1957—Hearings held in Los Angeles, Donald A. Pearce, Assistant Commissioner of Corporations, as hearing officer.
8. December 2, 1957—Final order to comply with the law and make good impairment of capital.
9. January 2, 1958—Appointed A. T. Perkins as conservator.

E. IMPAIRMENT OF CAPITAL

At the hearings (August-October) it was brought out that, because of the uncollectibility of a large amount of the outstanding receivables, the reserves for losses were inadequate to the following extent:

	Outstanding	*Adequate reserve*
Installment contracts receivable	$3,214,842.56	$1,622,359.35
Personal loans—installment	564,070.70	187,366.52
Choses in action		
Delinquent—inadequately secured		
a—Indeterminate or maturity beyond legal limit	1,980,845.89	1,721,640.61
Other notes receivable (same as above)	4,407,865.20	2,004,093.29
Totals	$10,167,624.35	$5,535,459.77

(* This information was obtained by your consultant in conversation with a representative of the commissioner's staff and was not taken from an official record).

	Outstanding	*Adequate reserve*
Plus		
Due from dealers	$32,854.41	
Due from Seltzer	1,941.74	
Accrued interest receivable	111,824.61	146,620 76
		$5,682,080.53
Minus		
Reserves already established		890,135 16
Net insufficiency of reserves		$4,791,945 37

(NOTE Subsequent audits indicate further shrinkage of receivables)

F. UNSAFE AND INJURIOUS PRACTICES

The reason for the collapse of Equitable is reasonably well set forth in the following partial quotation from the findings and conclusions of Donald A. Pearce, Hearing Officer for the Division of Corporations, dated November 27, 1957.

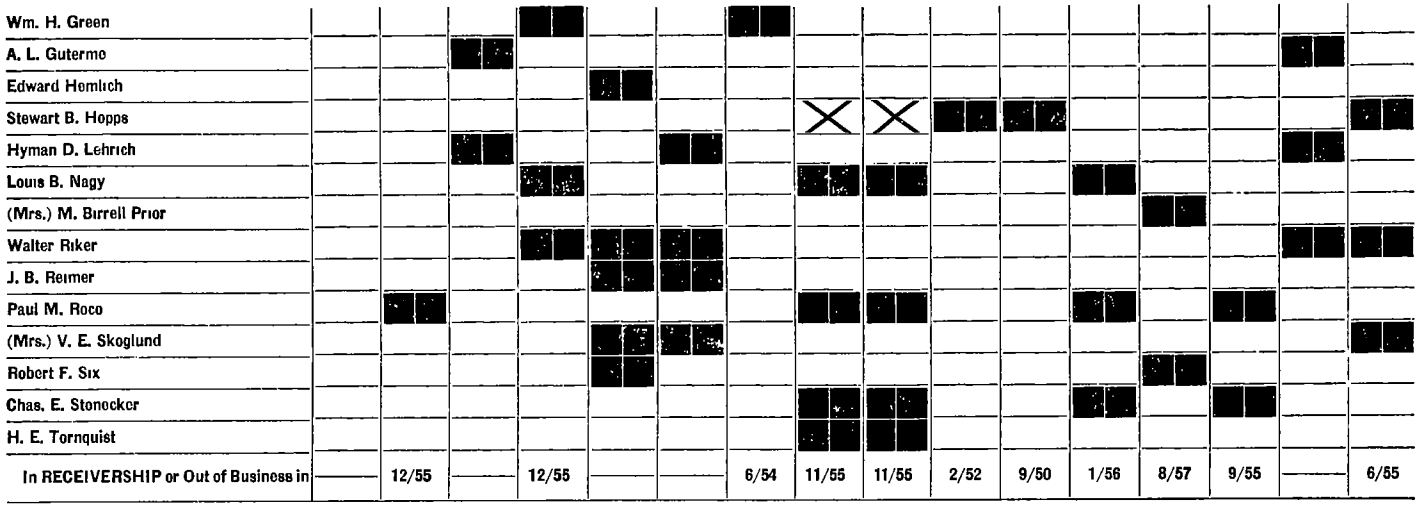
> "* * * Ruby Schinasi and Lowell Birrell were principals behind the scenes in the various transactions referred to above (in the report) through the period October, 1953, to date which siphoned off liquid assets of Equitable and substituted uncollectible items therefor, and that Slavin and Drezner acted as agents of Birrell and Mrs. Schinasi in making and purchasing the majority of the large, improperly secured and illegal loans and choses in action; that Birrell controlled the S. & C. Trading Company arrangements whereby loans and choses were made and purchased by Equitable at interest at 6 to 10 percent per annum while large brokerage profits were made by S. & C. Trading Company, which latter company was controlled by and for the benefit of Lowell Birrell since at least June, 1956, that the impairment of capital, surplus and reserves amounts in fact to a figure which is in excess of the entire capital and surplus of Equitable."

Some of the major activities and violations of the Industrial Loan Law follow:

1. Loans made wherein the market value of the collateral securing them was less than 115 percent of the unpaid balance, in violation of Section 18668.
2. Equitable purchased during 1956 various mechanics liens and gas runs (production of gas from gas wells) which had no fixed or determinable due date and were not payable within 36 months from the date of purchase as required by Section 18405, and which were not legal investments for savings banks as permitted by Section 18613.
3. A loan of $104,666.66 made to John Meyer on October 6, 1954, which John Meyer testified was made as an accommodation loan on behalf of Lowell Birrell as to which Meyer testified he received no money but that Birrell received all of the money.
4. A loan to Mr. Chavez, Jr., on April 19, 1956, on which Mr. Berkwit has been unable to obtain any confirmation from Chavez as to whether he owes or intends to pay the loan.

EXHIBIT A

COMPANY DIRECTORS & OFFICERS	American Leduc Petroleum, Ltd.	Arizona Western Insurance Co.	Bon Ami Co.	Central Standard Insurance Co.	Doeskin Products, Inc.	Greater New York Industries Inc.	Guardian Insurance Co.	Inland Empire Insurance Co.	Louisville Fire & Marine Ins. Co.	Pioneer Equitable Insurance Co.	Rhode Island Insurance Co.	Royal American Insurance Co.	Swan Finch Oil Corp.	Trans-Pacific Insurance Co.	United Dye & Chemical Corp.	Wm. Penn Fire Insurance Co.
Carl W. Betz		■ ■						■ ■	■ ■			■ ■		■ ■		
Lowell M. Birrell	■ ■				■ ■	■ ■		X	X	■ ■	■ ■		■ ■		■ ■	■ ■
T. R. Cairns						■ ■									■ ■	
Roy H. Callahan	■ ■				■ ■											
O. B. Calloway								■ ■	■ ■					■ ■		
F. W. Clarke										■ ■	■ ■					■ ■
Roy C. Chapin				■ ■											■ ■	
Paul Cliver				■ ■			■ ■	■ ■	■ ■							
J. W. Crosby					■ ■	■ ■										
Virgil D. Dardi			■ ■	■ ■			■ ■								■ ■	
R. J. Everleigh			■ ■												■ ■	
Mark Goode		■ ■						■ ■	■ ■			■ ■		■ ■		
G. L. Gotz								■ ■	■ ■							



INTERLOCKING DIRECTORATE· The careers of Stewart B Hopps and Lowell M. Birrell during the last two decades have literally threaded their way through more than 100 American and foreign insurance and industrial companies. Keys to the Inland Empire Insurance Co maze are shown above through a partial list of companies, officers and directors. Solid boxes represent publicly listed positions held at one time or another Those with "X" reveal the unlisted presence of Hopps and Birrell Inland Empire absorbed Louisville Fire & Marine in 1954. Bon Ami, until last month, was owned by United Dye & Chemical

5. Many loans were made to persons or companies closely affiliated with or influenced by Lowell Birrell and Virgil Dardi and firms in which agents of Mr. Birrell, such as Roy Callahan and others, acted at the bidding of Mr. Birrell.
6. Installment contracts of questionable value were purchased as is evidenced by the need for a reserve of $1,622,359 against outstandings of $3,214,843.
7. The trick seems to have been to get good money out of Equitable by means of these worthless notes and choses, and then to milk the assets of the organizations to which the money went for the benefit of Birrell and his team.

G. UNSAVORY BACKGROUND OF BIRRELL AND COHORTS

This is a quotation taken from an article which appeared in the New York *Herald Tribune* of October 15, 1957:

> "A quicksand industrial empire created by a New York attorney and a San Francisco insurance financier has already drained more than $20,000,000 from some 250,000 Americans in two decades, according to official reports, in one of the most flagrant abuses of management responsibility in business history. The sleight-of-hand financial artistry of lawyer Lowell M. Birrell and financier Stewart B. Hopps has been sketched out in a welter of stockholder suits, judgments, settlements, injunctions and receiverships. The sordid tale of manipulations and deceit that has not yet run its course is recorded in numerous court proceedings."

Exhibit "A" is only a partial list of companies which came under the financial juggling of Birrell and his associates. It is to be noted that out of these 16 companies, 11 have been placed in receivership or gone out of business.

The manipulations of this clique have been so involved that it would take a large volume to partially explain what actually took place. Just as a small example, the stock transactions of Equitable have been so confused as to have made it impossible for the Commissioner of Corporations to determine the beneficial owner of the stock of Equitable.

Birrell is now in South America, according to reports; Hopps evidently is residing in a two-bedroom $450,000 home on Belvedere Island near San Francisco, where there is a suit for $8,000,000 pending against him arising out of the Rhode Island Insurance Company crash in 1950.

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ASSEMBLY INTERIM COMMITTEE REPORTS—1957-1959
VOLUME 16 NUMBER 5

FINAL REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

TO THE CALIFORNIA LEGISLATURE
(House Resolution No. 223, 1957)

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WILLIAM F. MARSH, *Vice Chairman*

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Charles Edward Chapel
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ROBERT S. THURN, *Committee Consultant*
NORMA WAGGERSHAUSER, *Committee Secretary*

March 16, 1959

Published by the
ASSEMBLY
OF THE STATE OF CALIFORNIA

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HON. CARLOS BEE
Speaker pro Tempore

HON. WILLIAM A. MUNNELL
Majority Floor Leader

HON. JOSEPH C. SHELL
Minority Floor Leader

ARTHUR A. OHNIMUS
Chief Clerk

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LETTER OF TRANSMITTAL

SACRAMENTO, March 15, 1959

HON. RALPH M. BROWN,
Speaker of the Assembly; and
Honorable Members of the Assembly
State Capitol, Sacramento

LADIES AND GENTLEMEN: Pursuant to House Resolution No. 223 of the 1957 California Legislature, your Assembly Interim Committee on Public Utilities and Corporations submits its report covering its functions and activities during the 1957-59 interim.

The work of the committee was divided, the full committee studying some subjects and the various subcommittees other subjects and each submits its own report and recommendation, if any, based upon facts enumerated at the various hearings held.

Respectfully submitted,

REX M. CUNNINGHAM, Chairman
WILLIAM F. MARSH, Vice Chairman

MONTIVEL A. BURKE
CHARLES EDWARD CHAPEL
CLAYTON A. DILLS
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
JAMES L. HOLMES
SETH J. JOHNSON
FRANK LUCKEL
ALAN G. PATTEE
CHARLES H. WILSON

House Resolution No. 223

Relating to constituting the Assembly Standing Committee on Public Utilities and Corporations an interim committee

1 The Assembly Standing Committee on Public Utilities and Corporations of the 1957 Regular Session is hereby constituted an interim committee and is authorized and directed to ascertain, study and analyze all facts relating to and regulating public utilities and corporations and matters incidental thereto, the powers and duties of the Public Utilities Commission, local utility franchises, and publicly owned utilities, including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Assembly, including in the reports its recommendations for appropriate legislation

2. The committee shall consist of the members of the Assembly Standing Committee on Public Utilities and Corporations for the 1957 Regular Session. The chairman and vice chairman shall be the chairman and vice chairman of the standing committee. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, and after final adjournment until the commencement of the 1959 Regular Session, with authority to file its final report not later than the fifth legislative day after the constitutional recess during such session.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly and of the Standing Rules of the Assembly as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties:

(a) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(b) To co-operate with and secure the co-operation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(c) To report its findings and recommendations to the Legislature and to the people from time to time and at any time, not later than herein provided.

(d) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6 The sum of twenty-six thousand dollars ($26,000) or so much thereof as may be necessary is hereby made available from the Contingent Fund of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid from the said contingent fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

(HOUSE RESOLUTION NO. 2495)

REPORT OF THE
COMMITTEE ON SMALL CRAFT HARBORS
AND WATERWAYS DEVELOPMENT

HOUSE RESOLUTION NO. 249

By Mr. Cunningham

Relative to an interim study of small craft harbors and waterways development.

Resolved by the Assembly of the State of California, That the Committee on Rules is hereby directed to assign to the Assembly Interim Committee on Public Utilities and Corporations the study of small craft harbors and waterways development and specifically with reference thereto, the question of licensing boat operators, title records and recording of boat transfers, educational programs on operation of boats, establishment of standards for the design and construction of boats, procedures for relations between State, counties, cities, harbor districts, and boating associations; a program of improvement, development, and maintenance of state waterways, procedures for standard financing by state loans, control of pollution and contamination, standards for marine and boat harbor construction and maintenance, and the feasibility of making capital available on a long time loan basis for private enterprise in marine and boat harbor construction, and including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution.

PERSONS APPEARING BEFORE THE COMMITTEE

EARL E. BACHMAN, California Region, U. S Forest Service
HENRY BATEMAN, Counsel, Seaboard Finance Company
BRYAN BAYLY, Vice President, Catalina Island Steamship Line
GORDON M. BOYES, Santa Cruz Chamber of Commerce
OKLEY G BRADLEY, Harbormaster, Santa Barbara
STANLEY BRISBIN, Newport Harbor Boat Rentals
JOHN E BROWN, Sales Director, Glasspar Boat Company
JAMES CARVER, Ventura County Boat Club
HENRY F. CLAUSEN, Member, Elkhorn Yacht Club
GEORGE CLEMENS, Citizens Committee for Monterey Small Boat Harbors
ALFRED D COONS, City Manager, City of Monterey
MARC A CREMER, California Marine Parks and Harbors Association
CAPTAIN RALPH DALE, California Fish and Game Commission
WILLIAM J. DAZE, JR., U-Drive Motor Boats
A. L DONALDSON, Minnesota Mining and Manufacturing Company
W. N DONAHUGH, President, California Marine Parks and Harbors Association
R. J. EDWARDS, California Marine Parks and Harbors Association
A. H GEISMAN, California Marine Parks and Harbors Association
A. W GLISSMAN, Whitey's Boat Landing, Carlsbad
DONALD GRAVES, Southern California Marine Association
J. PAUL GUTLEBEN, Alameda
CLYDE S. HICKEY, Golden Gate Sportfishers' Association
FRANK HIGBEE, Port Warden, Los Angeles City Harbor Department
CAPTAIN W. C. HOGAN, Chief of Staff, Twelfth U. S. Coast Guard District
CAPTAIN E. W. HOLTZ, U. S. Coast Guard
HELEN HOXIE, Manager, Monterey Peninsula Visitors and Convention Bureau
TOM HUDSON, Monterey County Board of Supervisors
JOHN F. JANSSEN, California Department of Fish and Game
ROBERT JOHNSON, Manager, Monterey Peninsula Chamber of Commerce

PERSONS APPEARING BEFORE THE COMMITTEE—Continued

REUBEN J. JOHNSON, Corps of Army Engineers, San Francisco District
A. V. JORGENSEN, Vice President, Southern California Marine Association
JOHN H. KEITH, Chief, Division of Assessments, State Board of Equalization
C. R KIRBY, Port San Luis Harbor Commission
OWEN KUNS, Deputy, Legislative Counsel's Office
W. LA MARR, Chief of Wildlife Protection, Department of Fish and Game
C. W. LAMUNYON, Bank of America
B. R LOWRIE, California Boating Counsel
J. A MANSFIELD, Lieutenant of Police, Redwood City
LARRY McDOWELL, Marine Director, City of Long Beach
JOHN E. MURPHY, Chairman, Legislative Committee, Massachusetts Yacht Club Association
MORGAN NOBLE, Harbor Engineer, Orange County Harbor District
ARTHUR W. NORDSTROM, Assistant City Attorney, City of Los Angeles
WILLIAM A. NORMAN, Council of Ventura County Boat Clubs
M. R. PEARCE, City Engineer, City of Monterey
ALLAN PHILBROOK, Assistant Superintendent, District 6, Division of Beaches and Parks
HUGH J. PLUMB, Vice President, Association of County Assessors
M. J. RENTON, Santa Catalina Island Company
KENNETH SAMPSON, Manager, Orange County Harbor District
DAN SEARLE, Mayor, City of Monterey
CAPTAIN FRANK SEEHORN, President, H-10 Water Taxi Co., Ltd., San Pedro
L. A. SOPER, California Bank
H. G STEVENS, Chief, Division of Small Craft Harbors
R. D. SWEENEY, Counsel, Southern California Marine Association
CYRUS M TUCKER, Marine Surveyor, Newport Beach
WIN UNGER, Commodore, Eleventh Coast Guard Auxiliary
FLOYD H. VANCE, American Water Ski Association, Sacramento
C. P. VON HERZEN, Member, Small Craft Harbors Commission
MERLE E. WILSON, City of Los Angeles Harbors and Marina
JAMES WOOLACOTT, Industrial Planning Engineer, South Pasadena

HEARINGS AND FIELD TRIPS

The following hearings were held by the Assembly Interim Committee on Public Utilities and Corporations, relative to House Resolution No. 249: August 1, 1957, Casa Munras Hotel, Monterey; November 6 and 7, 1957, Room 367, State Building, San Francisco; February 18 and 19, 1958, Room 115, State Building, Los Angeles; December 15 and 16, 1958, Room 115, State Building, Los Angeles.

A field trip was made by the committee on July 16, 17, and 18, 1958, for the purpose of making an on-the-spot study of the problems created on waterways by overlapping and conflicting political jurisdictions. This trip covered the waters of Folsom Dam Site State Park, Donner Lake and Lake Tahoe.

SCOPE OF THE STUDIES BY THE COMMITTEE

During the time that the Assembly Interim Committee on Public Utilities and Corporations was to make its investigations relative to House Resolution No. 249, the Bonner Committee of the House of Representatives of the United States Congress was engaged in a study relative to safety regulations and registration of small craft. The committee was informed that the Bonner Committee had introduced legislation in the Congress that would give to the states the right to enact legislation relative to safety regulations and registration of small craft, which would be a grant of concurrent jurisdiction on waters where federal jurisdiction applied. It was the express purpose of the Bonner

Bill that the states be allowed to enact legislation that would make for uniformity over all waters of the United States whether under federal jurisdiction or not. The great enlarged number of small craft and their mobility made such legislation imperative. As to the registration of small craft, the Bonner Bill required that the states have an acceptable system by April 1, 1960, or the registration would be done by the Federal Government acting through the Coast Guard.

In view of the activities of the Bonner Committee and the pressing problem of safety of small craft in this State, the committee felt that its studies should be limited to preparation of small craft safety regulations and registration. The committee also did not want to duplicate the activities of the California Senate Committee studies on small craft harbors.

FEDERAL, STATE, AND LOCAL JURISDICTION ON WATERS OF THE STATE OF CALIFORNIA

The Federal Government has superior jurisdiction on the navigable waters of the United States. Any state or local law that is in conflict with the federal law on the navigable waters of the United States is unconstitutional. However, the states and local agencies can legislate upon matters which the Congress has not acted upon and where there is no express or implied prohibition. Generally speaking, the navigable waters of this State are those which are connected to the sea or its bays and the waters lying between two or more states. In California, the term navigable waters would include the seaports, bays, harbors, central valley river system, Colorado River and Lake Tahoe. All other waters, for the purpose of establishing federal jurisdiction, would be considered unnavigable. The unnavigable waters of the State, which would include reservoirs, inland lakes, rivers above the point of navigation and the Salton Sea, are subject to state and local control only.

PROBLEMS INVOLVED IN THE EXERCISE OF FEDERAL JURISDICTION

On the navigable waters of this State the federal navigation laws and the rules and regulations of the Coast Guard are enforced primarily by the Coast Guard. The tremendous growth in the number of small craft operating on these waters has brought about a virtual breakdown in the ability of the Coast Guard to enforce the provisions of law applicable. The Coast Guard is doing a fine job where it can, but there is just not sufficient personnel to handle the job. Also, any violation of a federal law or regulation must be handled by the federal courts and the dockets of these courts are loaded. The Coast Guard freely admits that, for the summary justice necessary for the enforcement of misdemeanor violations, which would cover virtually all of the violations of small craft, state or local regulation would be more effective.

PROBLEMS INVOLVED IN THE EXERCISE OF STATE JURISDICTION

The State can exercise exclusive jurisdiction only over the unnavigable waters of the State and any legislation that was to be statewide would have to be in conformity with federal laws and regulations made pursuant thereto. Inasmuch as the California Legislature meets every

two years in Regular Session and federal laws or regulations could and would change during California's constitutional recesses, any provision for the regulation of small craft should have a great degree of flexibility. If flexibility is absent then there will not be that degree of uniformity that is so necessary to increase the safety of boating There will be confusion on the part of the boating public and legislation would be detrimental rather than beneficial.

PROBLEMS INVOLVED IN THE EXERCISE OF LOCAL JURISDICTION

When a city, county or other political subdivision enacts local law such law is effective only within the territorial limits of such city, county, or political subdivision. In California, especially in the inland waters, a waterway is quite often the boundary between two or more political territories. This causes problems as to the particular law that is to be applied, and as to where the trial should be held in the event of violation, and who shall be charged with the enforcement of the law in the first place. Also, an ordinance of a city, county or other political subdivision cannot be in conflict with any state law and, on navigable waters, such local law cannot be in conflict with any federal law or regulation. Because of the problems involved in confliction or jurisdiction, many local agencies are not equipped to handle the problem of legislation for the safe operations of small craft.

COMMITTEE STAFF STUDY OF LOCAL LAWS RELATING TO SMALL CRAFT

Prior to the committee's field study of July 16, 17, and 18, 1958, and as a part of that study, the committee staff wrote to all of the county clerks in California. The county clerks were asked to furnish the committee copies of their ordinances relating to small craft if the county had such and, in the event there were no such ordinances in their county, to so advise the committee. All but seven counties reported, 24 counties reporting having such ordinances and furnishing copies to the committee, 27 counties reporting that they did not have such ordinances. However, of the counties reporting no ordinances, 5 counties reported that such ordinances were being considered.

Of the 24 counties having ordinances relative to small craft: 11 had some provision relating to mufflers; 9 had a provision relating to the dumping of debris; 19 had some provision relating to alcohol and narcotics; 14 had some provision relating to fire extinguishers; 18 had some provision relating to life preservers; 6 had some provision relating to mooring to buoys; 13 had some provision relating to water shows or regattas; 18 had some provision relating to reckless operation of small craft; 6 had some provision relating to anchorage of small craft; 10 had some provision for the conduct of passengers; 6 had some provision relating to firearms; 9 had some provision relating to sirens on small craft; 7 had some provision making the owner of the boat responsible for violations; 11 had some provision establishing swimming areas and distances that small craft must observe around such areas; 19 had some provision relating to the hours when water skiing could be done; 14 had some provision requiring an observer in a boat towing a water skier; 15 had some provision relating to lights; 11 had some provision

relating to overloading; 18 had some provision relating to the speed of small craft generally and in certain areas; 6 had some provision relating to licenses or permits; 8 had some provision relating to the right of citation; 16 had other miscellaneous provisions not of a general nature. (See Exhibit A.)

FIELD TRIP STUDY OF THE PROBLEMS CREATED BY MULTIPLE JURISDICTION

The committee held a field trip on July 16, 17, and 18, 1958, which covered the waters of Folsom State Park, Donner Lake and Lake Tahoe. The committee felt that any jurisdictional problem that may be encountered in the inland waters of the State of California would be duplicated in these three sites. The waters in the Folsom State Park area are under the political jurisdiction of El Dorado, Placer and Sacramento Counties, the State Division of Beaches and Parks and, possibly, because of the flood control features of the project, the Federal Government. Donner Lake is mostly under the jurisdiction of Nevada County but the extreme eastern portion of the lake does lay within the boundary of a state park. The waters of Lake Tahoe are under the jurisdiction of five counties, two of them in California, two states, California State Park Commission and the United States Coast Guard.

At the Folsom State Park area, at the time of the field study, El Dorado and Placer Counties had ordinances in effect which covered portions of Folsom Lake. The State Park Commission had also adopted regulations that applied to all of Folsom Lake and to all of Lake Natoma, which is the small lake located in the park. At that time, Sacramento County did not have any ordinance relative to the regulation of small craft. It is virtually impossible to locate the boundaries of El Dorado and Placer Counties in the center of Folsom Lake so the effectiveness of the ordinances of these two counties in that area is worthless. Also, the load limitations of boats are different in the two ordinances so, even if a boater was complying with one ordinance, he would be in violation of the other. Compliance with the regulations of the State Park Commission would not be compliance with the ordinances of El Dorado and Placer Counties and the result can only be total confusion on the part of the boating public. The ordinances of the two counties allow the officer enforcing such ordinance to cite an offender and accept his written promise to appear in court, much the same as citation is used when there is a violation of the Vehicle Code.

On the other hand, personnel charged with the enforcement of the regulations of the State Park Commission do not have authority to issue citations. When a violation of park regulations occur the park personnel must go to the Justice Court having jurisdiction and swear out a complaint; a warrant is then issued with the bail endorsed on it and the warrant and a copy of the complaint is then sent to the sheriff of the county where the violator resides for service. The procedure that the park personnel must follow is cumbersome and takes such personnel away from their duties at the park. Also, there are some five Justice Courts that have jurisdiction on Folsom Lake and the complaint must be filed in the proper court.

At the time of the committee's field study, Nevada County did not have an ordinance relative to the operation of small craft. The effect of this void was to make Donner Lake a no-mans-land. A boater could do anything and use any equipment on the lake except in the small portion of the lake within a state park. Waters that are not covered by regulation create a hazard for the boating public; they expect to have to use their boats in certain ways and they expect everyone else to do so. No rules create confusion.

The waters of Lake Tahoe are patroled by the United States Coast Guard, however, at the time of the committee's field study, there were only two men doing such patrolling and the enforcement being achieved was apparently not satisfactory. On Lake Tahoe, the committee found the same confusion as the result of different ordinances that were found to exist at Folsom Lake. The same problems of enforcement were found with the added problem that the State of Nevada was also in the picture. Officials of the State of Nevada expressed the hope that the State of California would enact boating legislation in compliance with the Bonner Bill and stated that they thought the State of Nevada would enact such legislation.

PERSONS PARTICIPATING IN FIELD TRIP STUDY BY THE COMMITTEE

ROY N. ANACHERIO, President, Lake Forest Pier Association, Berkeley
P. M. BURROUGHS, North Tahoe Community Club, Inc.
GORDON COOLEY, California Division of Beaches and Parks, Folsom
RAY CORLETT, Nevada Fish and Game Commission
DALLAS M. HERING, State Division of Small Craft Harbors
WALTER R. JOHNSTON, State Division of Beaches and Parks, Rio Vista
M. J. MASON, State Division of Beaches and Parks, Stockton
FRANKLIN H. TUTTLE, Chief Deputy District Attorney, Placer County
JACK R. WINKLER, El Dorado County District Attorney

NEED FOR UNIFORMITY OF SMALL CRAFT REGULATIONS

As of October 1, 1958, there was a total of 154,916 small craft registered with the county assessors in the State of California. It was estimated that there were some 70,000 boats that had not been registered. Small boating is a growing recreation. It is a sport the whole family can, and does, participate in. As the sport participation increases there will be, and there is now, the necessity to regulate the activity so that the maximum enjoyment can be realized by the boating public. This maximum enjoyment can only be realized when the boater knows the rules and what is expected of him at any given time and in any given place. At present the boater is confused and, unless he is operating in an area that he knows well, and knows the local laws, he is also violating some law he has never heard of and has had no opportunity to learn about. A great number of the small craft operating in the State of California are trailer boats and the boater travels around the State taking his boat with him in the fond expectation of enjoying himself on a new body of water. The boating public are entitled to as much uniformity of law as is possible and adequate notice of any special local law or regulation. (See Exhibit B.)

NEED FOR SPECIAL LOCAL LAWS AND REGULATIONS OF SMALL CRAFT

On its field study the committee found that there were certain areas that had a particular problem where a general regulation would not be beneficial. Waterways are not like highways. There are tides in certain areas, the level of some bodies of inland waters change due to consumption, there are rock snags and other hazards. In certain areas the waterway vitally affects the people who live next to it and use at certain times and in certain ways would be a hardship to them. There are many activities that can take place on any waterway which must all be considered such as swimming, fishing, regattas, and watershows, speed races and water skiing. Also, special rules and regulations are needed next to marinas, boat harbors, and launching ramps The committee found that there is a definite area of regulation of small craft where the local agency could and should legislate, however, where a local agency does legislate, there must be adequate notice to the boating public that special rules and regulations exist and what they consist of.

FIFTH DRAFT OF PROPOSED SMALL BOAT ACT OF THE COUNCIL OF STATE GOVERNMENTS

The committee had prepared and sent to the representatives of various boating clubs and organizations a copy of the fifth draft of a proposed uniform state boat act proposed by the Council of State Governments. The proposed act was one that complied with the provisions of the Bonner Bill and was for the purpose of establishing a model from which the states could draft legislation at the state level. The copy of the fifth draft, with some possible changes that had been recommended, was studied by the representatives of boating groups and conferences with the committee staff were held preparatory to a committee hearing (See Exhibit C.)

As a result of the conferences prior to the committee hearing the committee was able to have preprints made for distribution at the committee hearing in Los Angeles on December 15 and 16, 1958. The registration of small craft was separated from the regulation of small craft as it was felt that there would be the necessity of an appropriation to set up the registration facilities while no appropriation would be necessary for the regulation aspect. Assembly Preprint Bill No. 4 was a bill that would regulate the operation and equipment of small craft. Assembly Preprint Bill No. 5 was a bill that would regulate the registration and numbering of small craft. The state agency that would administer both acts was intentionally left out of the preprints and was one of the main items to be decided at the hearing. (See Exhibits D and E.)

EQUIPMENT REQUIREMENTS FOR SMALL CRAFT

The equipment requirements of the fifth draft of proposed small boat act of the Council of State Governments and of Assembly Preprint Bill No. 4 are the same as those contained in the Bonner Bill which became federal law in September of 1958. They are also contained in the Coast Guard inland rules. It was felt by the committee that these were properly the subject of general regulation and should be contained in state legislation. There is a provision that the state agency that will

administer the act may modify the equipment requirements so that there will never be a conflict between state and federal laws or regulations. In the equipment requirements relating to lights there is the alternative of using those lights required by the federal regulations for preventing collision at sea.

REGULATION OF BOAT LIVERIES

It was the consensus that boat liveries should be required to keep a record of the names and addresses of the persons renting boats. It was felt that in the event a boat from such a livery was found adrift or abandoned it would be essential that the names and addresses of the persons who should be in the boat be known in order to facilitate rescue operations if necessary and also that the boat livery be held responsible for the proper equipment being on the boat, either furnished by the livery or the renter, at the time the boat left the livery.

MUFFLING DEVICES

It was the consensus that the exhaust of every internal combustion engine be muffled except during speed races or test periods. It was felt that in some areas the excessive noise of high speed boats would create a definite nuisance unless controlled

PROHIBITED OPERATION

The section of the legislation relating to the prohibited operation of boats is the substantive section of the act as the act relates to use of the boat rather than to equipment. The state agency can adopt rules and regulations for the operation of small craft and violation of those rules and regulations will be prima facie evidence of violation of the section containing prohibited operation. The violator will then have the duty of going forward with the evidence and of showing that, under the circumstances, his violation was not reckless or negligent and did not endanger the life, limb or property of any person including his own. This is very similar to the present sections of the Vehicle Code relative to speeding. It was felt that there are so many times on waterways that the conditions change to such a degree that a hard and fast rule could not be formulated.

ALCOHOL AND NARCOTICS

The proposed legislation contains a provision prohibiting the operation of any boat, water skis or similar device while the operator is under the influence of alcohol or narcotics. This is just common sense and all persons were in favor of such a provision. However, there should not be a provision against carrying of alcohol as many persons live on their boats and use them as a home.

COLLISION, ACCIDENTS AND CASUALTIES

The proposed legislation would require that when a person is involved in a collision that he shall stop and render aid if he can do so without danger. He shall also give his name and address and the identification of his boat. If, as a result of any collision, there is anyone injured or

there is property damage in excess of $100 the operator of the boat involved must file an accident report with the State.

WATER SKIS AND SURFBOARDS

The proposed legislation requires that a boat towing a water skier shall have an observer in the boat in addition to the operator. It also sets forth the time of the day in which water skiing can be carried on. There was some objection to the time limits and it might well be that the legislation should contain a provision for local control where such local control would change the skiing hours.

REGATTAS, WATERSHOWS AND RACES

The proposed legislation contained a provision that would require that a permit be obtained from the State before any regatta, watershow or race could be held. There was a great deal of opposition to this requirement by representatives of various local agencies. This is not required to be regulated by the State by the provisions of the Bonner Act and would be a burden on the state agency. The withdrawal of this provision from state legislation would not have any adverse effect on the balance of the proposed legislation.

LOCAL RULES AND REGULATIONS

It was attended by the proposed legislation that the State regulate the equipment and operation of all boats on all the waters of this State. The state agency would be limited in adopting regulations. It could only adopt those regulations that were the same as those in force by reason of federal or Coast Guard law or regulation. These regulations of the state agency would be in force generally and would, of necessity, be those that would be capable of general application. The local agencies would be authorized to adopt any special rule or regulation that would not conflict with the general rules and regulations of the State. The only time the state agency would be authorized to adopt any special rule or regulation for a strictly local problem would be when requested to do so by any local agency or when the problem involved the territorial waters of two or more local agencies and there was a conflict in the local regulations and it would be necessary to resolve the conflict in the interest of uniformity or where a local problem existed and there were no regulations in effect that could cure the problem (i.e., where there was a void in the law and some law was necessary in the interest of safety).

NOTICE OF LOCAL RULES AND REGULATIONS

The proposed legislation contains a provision for the posting of any local rule or regulation in three conspicuous places along the waterway where such local rule or regulation is in effect. It was felt that the boating public is entitled to know what they are expected to do and that the mere publishing of an ordinance in some newspaper in the county was not sufficient. It might well be that the best and most practicable way that notice can be given is to mark the waters with a uniform buoy system.

OWNERS CIVIL LIABILITY

There is a provision in the proposed legislation that would make the owner of a boat civilly liable for the negligence of anyone operating the boat with his express or implied permission. The dollar limitations are the same as those contained in the Motor Vehicle Code and the section would work in the same manner as present Vehicle Code sections do relating to the civil liability of owners of motor vehicles. There was no apparent objection to this portion of the proposed legislation.

ENFORCEMENT

There is a section on the proposed legislation that sets up the enforcement of the act. The act would be enforced by peace officers of this State, i.e., sheriffs, deputy sheriffs, city police officers and any person designated in any law to enforce the provisions of this act. It was not the intention to establish any state enforcement agency similar to the California Highway Patrol.

CITATION

The proposed legislation contains a provision for the citation of violators and accepting their written promise to appear in court. This is an essential part of the act as it allows the officer to remain on duty where he is needed rather than being at some other place carrying out a lengthy procedure to bring a violator to justice.

PLACE OF TRIAL

The proposed legislation contains a section enlarging the jurisdiction of justice courts and municipal courts in that trial for any violation of the act can be brought in any court having jurisdiction of the offense which is within 50 miles of the site where the violation took place. This is necessary because of the boundaries of the various political subdivisions being in the center of bodies of water and in every such case the question of territorial jurisdiction of the court could arise.

PUNISHMENT

The proposed legislation provides that for equipment violations there shall be a fine of $50 (not to exceed) or five days in jail or both; for violation by boat liveries of registration and equipment requirements there shall be a fine of $100 (not to exceed) for violation by an operator pulling a water skier without an observer or during the hours when skiing is prohibited there shall be a fine of not to exceed $100; for violating the prohibited operation provisions, alcohol and narcotics provisions and failure to stop and render aid provisions there shall be a fine of not to exceed $500 or imprisonment for not to exceed six months or both.

REGISTRATION OF SMALL CRAFT

The proposed legislation, Assembly Preprint Bill No. 5, (Exhibit E) would regulate the registration and numbering of small craft in this State. By the terms of the Bonner Act, a state must have an approved system by April 1, 1960, or the Federal Government will num-

ber and register boats. This would be a very bad thing for the State. There would be boats that would escape numbering and enforcement personnel would not be able to get the information they needed immediately as there are two Coast Guard Districts in this State and federal personnel are not bound to co-operate with state personnel and the California Legislature has no control whatsoever over federal personnel. The existing method of numbering by the county assessors does not comply with the provisions of the Bonner Bill. If California is to retain control over boating in this State, it is imperative that a registering and numbering law be enacted in the 1959 General Session of the Legislature.

The proposed legislation will comply with the terms of the Bonner Act; it provides that the numbering and registration shall be done by a state agency; that numbers shall be issued every three years; that there shall be a reciprocity period of 90 days which shall be given to boats from another state having a similar system; it exempts boats belonging to the United States, vessels from another country, vessels of the state or subdivision of the state and any vessel that the state agency finds should be exempt; it provides a fine of not to exceed $50 or imprisonment for not to exceed five days or both for operation of an undocumented vessel or nonexempt vessel on the waters of this State; it contains a provision for citation and written promise to appear; it enlarges the jurisdiction of justice and municipal courts so as to remove the problem of territorial jurisdiction of those courts; it provides that peace officers of this State shall enforce the provisions of the act.

EXHIBIT A

ANALYSIS OF COUNTY ORDINANCES CONCERNING SMALL BOATS AND RELATED RECREATION

COUNTIES WITHOUT REGULATION

The following counties who have reported to the Committee on Public Utilities and Corporations have no ordinances at this time relating to regulation or control of small craft and related recreation:

Alameda _____None
Alpine _____None
Calaveras _____None; ordinance presently being considered by board of supervisors.
Contra Costa _____None
Inyo _____None
Kings _____None
Los Angeles _____None; study is presently under way for adoption of an ordinance.
Mariposa _____None
Mendocino _____None
Modoc _____None
Mono _____None
Monterey _____None; proposed regulations covering Lake Nacieniento being drawn for adoption with co-operation of San Luis Obispo county.
Napa _____None, board of supervisors considering proposal.
Nevada _____None
Sacramento _____None
San Benito _____None
San Francisco_____None
San Mateo _____None; board of supervisors has requested district attorney to study necessity for an ordinance relating to small craft.
Santa Barbara____None
Santa Cruz_____None
Siskiyou _____None
Solano _____None
Tehama _____None
Tulare _____None
Yuba _____None
Yolo _____None
Sutter _____None

COUNTIES FAILING TO REPORT

Amador	Orange
Butte	San Diego
Humboldt	Trinity
Marin	

COUNTIES WITH REGULATION

For the purpose of this summary of the various ordinances of the several counties who have adopted ordinances concerning regulation of operation of small craft and related recreation, this digest will not list general terms which have no substantive effect, e.g., definitions and applications, effective dates and severability sections. In the interest of brevity, only those sections which in some way regulate or control the operation of small craft and related recreational activities will be analyzed. Each substantive subject matter will be treated as a general heading, the county's regulation, if any, relating thereto being set opposite the name of the county.

County	*Definitions*	*Mufflers*	*Dumping of debris*
Colusa	Yes	None	None
Del Norte	None	None	None
El Dorado	Yes	Yes	Yes
Fresno	Yes	None	Yes
Glenn	Yes	None	None
Imperial	None	None	None
Kern	Yes	None	None
Lake	None	Yes Blue Lakes only	None
Lassen	Yes	Yes	Yes
Madera	Yes	Yes	None
Merced	None	Yes	Yes Also prohibits cleaning fish in a boat
Placer	Yes	None	Yes
Plumas	Yes	Yes	Yes
Riverside	Yes	Yes	None
San Bernardino	None	None	None
San Joaquin	Yes	None	Yes
San Luis Obispo	Yes	Yes	None
Santa Clara	Yes	None	None
Shasta	Yes	Yes	None
Sierra	Yes	None	Yes
Sonoma	None	Yes	None
Stanislaus	Yes	None	Yes
Tuolumne	Yes	Yes	None
Ventura	None	None	None
State Park	Yes	Yes	Yes

County	*Alcohol and narcotics*	*Fire extinguishers*	*Life preservers*
Colusa	Yes; applies to both water skiers and boat operators	Yes, inboards and motorboats over 26′	Yes
Del Norte	None	None	None
El Dorado	Yes	Yes, all boats	Yes
Fresno	Yes	Yes, all motorboats	Yes
Glenn	Yes, water skiers and boat operators	Yes, excepting outboard motorboats less than 26′ in length	Yes
Imperial	Yes	None	None
Kern	Yes	Yes, inboards only	Yes
Lake	Yes; prohibited on both Clear Lake and Blue Lakes	None	None
Lassen	Yes	Yes, inboards only	Yes
Madera	Yes	Yes, all motorboats	Yes
Merced	Yes, "not allowed in boats"; no intoxicated person allowed in boat	Yes	Yes
Placer	Yes	Yes	Yes
Plumas	Yes	Yes, inboards only	Yes, children under 10 years must wear at all times
Riverside	None	None	Yes, and at least one oar or paddle
San Bernardino	Yes but does not include narcotics	None	Yes
San Joaquin	Yes	Yes, all boats	Yes
San Luis Obispo	None	None	Yes, and children under 12 must wear at all times
Santa Clara	Yes	Yes, inboards only	Yes
Shasta	Yes	None	Yes, each person
Sierra	Yes	None	None
Sonoma	None	None	None
Stanislaus	Yes	Yes, all motorboats	Yes, no inflatable preserver
Tuolumne	Yes	Yes, inboards only	Yes
Ventura	None	None	None
State Park	Yes	None	Yes

County	Prohibited mooring to buoys	Supervised water shows	Reckless operation	Prohibited anchoring in passageways
Colusa	None	None	Yes	None
Del Norte	None	None	Yes	None
El Dorado	Yes	Yes	Yes; prima facie rules	Yes
Fresno	Yes	Yes	Yes, prima facie rules	Yes
Glenn	None	None	None	None
Imperial	None	None	None	None
Kern	None	Yes	Yes	None
Lake	None	None	Yes, no standards given	None
Lassen	Yes	Yes	Yes	Yes
Madera	None	Yes	Yes	None
Merced	None	Yes	Yes	None
Placer	Yes	Yes	Yes, prima facie rules	Yes
Plumas	None	Yes	None	None
Riverside	None	Yes	Yes	None
San Bernardino	None	None	Yes, no standards	None
San Joaquin	Yes	Yes	Yes	Yes
San Luis Obispo	None	None	None	None
Santa Clara	None	None	Yes, prima facie rules	None
Shasta	None	Yes	Yes	None
Sierra	None	None	Yes	None
Sonoma	None	Yes	None	None
Stanislaus	Yes	Yes	Yes, prima facie rules	Yes
Tuolumne	None	None	Yes	None
Ventura	None	None	None	None
State Park	Yes	Yes	Yes	None

County	Passengers remain seated	Shooting	Sirens
Colusa	None	None	None
Del Norte	None	None	None
El Dorado	Yes	Yes; except during waterfowl season	Yes; except authorized patrol boats
Fresno	None	Yes; except during waterfowl season	Yes, except authorized boats
Glenn	Yes	None	None
Imperial	None	None	None
Kern	None	None	Yes, also red spotlight except authorized boats
Lake	None	None	None
Lassen	Yes	Yes; except during waterfowl season	None
Madera	Yes	None	Yes, except authorized boats
Merced	Yes	None	Yes; except authorized patrol boats
Placer	Yes	None	None
Plumas	None	None	Yes, except authorized boats
Riverside	None	None	None
San Bernardino	Yes	None	None
San Joaquin	Yes	Yes, except during waterfowl season	Yes; except authorized boats
San Luis Obispo	Yes	None	None
Santa Clara	Yes	None	None
Shasta	None	Yes; prohibited at all times	Yes, except authorized patrol boats
Sierra	None	None	None
Sonoma	None	None	None
Stanislaus	None	Yes; except during waterfowl season	Yes, except authorized boats
Tuolumne	None	None	None
State Park	None	None	None

County	*Owner's responsibility*	*Swimming areas*	*Miscellaneous equipment requirements*
Colusa	None	None	None
Del Norte	None	None	In accordance with state and federal laws
El Dorado	Yes	Motorboat or water skier prohibited within 20 feet of marked swimming areas, swimming prohibited in open channels or 300 feet from shore unless accompanied by boat	Motorboat 16 feet or over shall have a whistle, backflash arrestors required
Fresno	Yes	Swimming prohibited 300 feet from shore unless accompanied by boat; water skier or motorboat prohibited within 20 feet of swimming area	None
Glenn	None	None	None
Imperial	None	Swimming permitted only in designated areas	None
Kern	None	Swimming permitted in designated areas or within 300 feet of shore	None
Lake	Yes, but only Clear Lake	None	None
Lassen	Yes	Boats prohibited within 50 feet of marked swimming areas; swimming prohibited in channels or 300 feet from shore	Boats over 16 feet require whistles; ventilators on all boats, backflash arrestors
Madera	None	None	None
Merced	Yes	None	None
Placer	Yes	Swimming prohibited 200 feet from shore, motorboats and skiers prohibited within 50 feet of designated areas	Boats over 16 feet require whistles; motorboats require ventilators; backflash arrestors required; bells required on boats over 26 feet; boat trailers prohibited parking within 50 feet of water
Plumas	None	Swimming prohibited in open water or in channels without boat	None
Riverside	None	None	At least two devices for giving distress signal by smoke during day and two flares at night
San Bernardino	None	Swimming prohibited within 100 feet of water edge or permitted in designated areas	Non
San Joaquin	Yes	Motorboating or skiing prohibited within 20 feet of designated swimming areas, swimming prohibited within 200 feet of shore or permitted in designated swimming areas	None
San Luis Obispo	None	None	None
Santa Clara	None	None	None
Shasta	None	Swimming prohibited in open water unless accompanied by boat	None
Sierra	None	None	None
Sonoma	None	None	None
Stanislaus	Yes	Boats prohibited within 20 feet of marked swimming area, designated swimming areas and no more than 200 feet from shore outside designated areas	Boat trailers prohibited from parking 50 feet from shoreline

County	*Water skiing*
Colusa	Prohibited one-half hour after sunset to one-half hour before sunrise; towrope shall not exceed 75 feet in length, skier must wear lifejacket
Del Norte	None
El Dorado	Prohibited between sunset and sunrise; attendant required.
Fresno	Prohibited one-half hour after sunset to one-half hour before sunrise, attendant required, prohibited on Florence, Edison, Wishon and Cortwright Lakes
Glenn	Prohibited between sunset and sunrise, towline not to exceed 75 feet, skier must wear life preserver
Imperial	Prohibited one-half hour after sunset to one-half hour before sunrise, unless boat has clearance lights, floodlight on skier and a horn
Kern	Prohibited between sunset and sunrise, attendant required, lifebelt required for skier
Lake	None
Lassen	Prohibited one-half hour after sunset to one-half hour before sunrise, observer required
Madera	Prohibited between sunset and sunrise; observer required, only one water skier may be towed, life jacket must be worn, when skier falls, boat operator must raise arm
Merced	Prohibited between sunset and sunrise, observer required, skier must be towed clockwise, all skiers must wear lifejackets, fallen skier should try to raise one ski three feet out of the water
Placer	Prohibited one-half hour after sunset to one-half hour before sunrise, observer required; skier must wear life jacket, no towline shall exceed 90 feet
Plumas	Prohibited one-half hour after sunset to one-half hour before sunrise, observer required; skier must wear lifejacket
Riverside	Observer required
San Bernardino	Prohibited between sunset and sunrise; no skiing within 200 feet of bathing beach, swimming float, landing float or dock, no more than two skiers, towrope not less than 75 feet nor greater than 95 feet, boat must be stopped when picking up or discharging skiers, observer required
San Joaquin	Prohibited one-half hour after sunset to one-half hour before sunrise
San Luis Obispo	Observer required, intoxicated skiers prohibited, life preserver required, only one skier may be towed, no towrope to exceed 75 feet in length, fallen skier shall raise water ski over head
Santa Clara	Prohibited one-half hour after sunset to one-half hour before sunrise, observer required unless boat equipped with panoramic rearview mirror
Shasta	Prohibited one-half hour after sunset to one-half hour before sunrise, observer required.
Sierra	None
Sonoma	None
Stanislaus	Prohibited one-half hour after sunset to one-half hour before sunrise, life preserver required for skier, observer required unless boat equipped with convex mirror
Tuolumne	Prohibited on surface of more than 350 acres and more than 5,500 foot elevation
Ventura	None
State Park	Prohibited one-half hour after sunset to one-half hour before sunrise; observer required

County	*Lights*	*Overloading*
Colusa	Required between sunset and sunrise	None
Del Norte	None	None
El Dorado	Required between sunset and sunrise	None
Fresno	Required one-half hour after sunset to one-half hour before sunrise	7½ times length, times greatest width times greatest depth shall constitute overloading.
Glenn	Required between sunset and sunrise	None
Imperial	None	None
Kern	Yes	None
Lake	None	None
Lassen	Yes	7½ times greatest length times greatest width times greatest depth.
Madera	Required one-half hour after sunset to one-half hour before sunrise	Sheriff establishes at time certificate for operation is issued.
Merced	Required one-half hour after sunset to one-half hour before sunrise	Established at issuance of permit and noted thereon
Placer	Required one-half hour after sunset to one-half hour before sunrise.	6¼ times total length times greatest width times greatest depth
Plumas	Required one-half hour after sunset to one-half hour before sunrise	None
Riverside	None	None
San Bernardino	Yes	Yes, but no standard
San Joaquin	Required one-half hour after sunset to one-half hour before sunrise	7½ times length times greatest width times greatest depth
San Luis Obispo	None	Limitation to be shown on certificate and to be determined by park custodian.
Santa Clara	None	Yes, but no standard.
Shasta	Required one-half hour after sunset to one-half hour before sunrise.	None
Sierra	None	Yes, but no standard.
Sonoma	None	None
Stanislaus	Required one-half hour after sunset to one-half hour before sunrise.	6¼ times total length times greatest width times greatest depth.
Tuolumne	Required one-half hour after sunset to one-half hour before sunrise except no boating permitted between 2 a.m and 7 a m.	None
State Park	Required one-half hour after sunset to one-half hour before sunrise.	None

County	*Speed limits*
Colusa	None
Del Norte	None
El Dorado	Five miles per hour within 300 feet of any swimmer, swimming float, dock, fish spawning area
Fresno	Five miles per hour within 100 feet of swimmers, of shore except while launching or landing, of any sailboat, of any skier and within 300 feet of any swimming float, dock, except that the limit shall be 15 miles per hour on Florence, Edison, Wishon or Cortwright Lakes.
Glenn	None
Imperial	Shall not be in excess of the speed designated by signs on certain lakes
Kern	Ten miles per hour within 300 feet from shore except designated areas; 200 feet from swimmers; 100 feet from a fish spawning area, from swimming or diving platform, from landing wharf or dock
Lake	Twelve miles per hour on Blue Lakes
Lassen	Ten miles per hour between sunset and sunrise, five miles per hour limit 300 feet from swimmers, swimming floats or docks and fish spawning areas
Madera	Five miles an hour 8 p m to 8 a m within 300 feet of shore, of any boat area; 100 feet of any swimmers, fish spawning area or swimming float
Merced	Five miles per hour or less 200 feet off shore of picnic and playground area, from swimmers; 100 feet of any landing raft
Placer	Five miles per hour in slow area, 100 feet of any swimmer, water skier, 200 feet from swimming float or swimming area or dock or patrol boat
Plumas	Ten miles per hour one-half hour before sunset or after sunrise, 5 miles per hour 300 feet from any landing, swimmer, fish spawning area, swimming float or buoy
Riverside	None
San Bernardino	No boat shall exceed 35 miles per hour, five miles per hour in designated fishing zones
San Joaquin	Five miles per hour in slow area, 100 feet of any swimmer or boat under 16 feet in length, 200 feet of any swimming float, dock or authorized patrol boat
San Luis Obispo	Not more than 30 nautical miles per hour, seven miles per hour within 50′ of shoreline or 100 feet of any swimming area, minimum passing distance 25 feet and 100 feet behind water skier or other boat
Santa Clara	None
Shasta	Ten miles per hour one-half hour after sunset and one-half hour before sunrise; 5 miles per hour within 300 feet of boat landing, swimmers, fish spawning areas or buoys
Sierra	No motorboat shall exceed 15 miles per hour
Sonoma	Five miles per hour adjacent to any swimmer, bathing beach, swimming float or dock.
Stanislaus	Any boat or aquaplane at a speed which will endanger limb, life, or property of person or at a speed which will not insure full stoppage within assured clear distance ahead, five statute miles per hour within slow area, within 100 feet of swimmers, of shore, of sailboat, of any boat less than 16 feet in length, any water skier, 200 feet of any swimming float, diving platform, dock, wharf, dam or landing float, or any patrol boat
Tuolumne	Five miles per hour within 200 feet of actual water edge, five miles per hour within 600 feet of the shore, 200 feet of any swimmer or dock
State Park	Five miles per hour within 200 feet of actual water edge, swimming float or dock; 100 feet of any swimmer.

County	*Licenses, permits, fees and insurance*
Colusa	None
Del Norte	None
El Dorado	None
Fresno	None
Glenn	None
Imperial	None
Kern	Valid California Operator's or Chauffeur's license required, dealer's license required, $10 fee to demonstrate or test boats, Permit. issued by director of parks—$1 50 for boats less than 16 feet; $3 50 for inboards, $3 50 for boats 16 feet or more
Lake	None
Lassen	None
Madera	Permit required $2 for any boat, $3 for powerboat less than 16 horsepower; $4 for any powerboat from 17 to 45 horsepower; $6 for powerboat from 60 to 80 horsepower; $8 for 81 to 150 horsepower; $10 from 151 to 250 horsepower; $12 50 for boats over 251 horsepower.
Merced	County permit required which shall be issued by guard; fees: $1 for resident; $10 for nonresident, insurance· $1,000 property damage and $5,000-$10,000 public liability
Placer	None
Plumas	None
Riverside	None
San Bernardino	Operator shall have valid motor vehicle license for boats in excess of 7½ horsepower
San Joaquin	None
San Luis Obispo	Park custodian issues licenses and permits: $2 50 for 10 horsepower or less, $5 for over 10 horsepower; operator of boat of 10 horsepower or more requires valid motor vehicle licenses, Insurance· $5,000 property damage, $25,000-$50,000 public liability
Santa Clara	None
Shasta	None
Sierra	None
Sonoma	None
Stanislaus	None
Tuolumne	Permit or license required and issued by sheriff or constable; Fees· $1 any boat; $2 50 powerboat less than 16 feet; $5 for each powerboat in excess of 16 feet.
State Park	None

County	*Miscellaneous provisions*
Colusa	None
Del Norte	None
El Dorado	None
Fresno	No boating on less than 300 feet surface area where signs erected each one-quarter mile; boating prohibited within 500 feet of any dam
Glenn	None
Imperial	Discharge of fireworks prohibited from boats; boats must operate in counterclockwise direction.
Kern	None
Lake	Unlawful to operate boat in excess of five miles per hour within 300 feet of any boat engaged in trolling for fish or boat still-fishing.
Lassen	None
Madera	Motorboats shall operate counterclockwise
Merced	Repair and painting regulated; advertising floats prohibited
Placer	Prohibited under 300 surface acres, signs each one-quarter mile, power boats must yield right-of-way to fishing and trolling boats.
Plumas	No motorboating on less than 10 surface acres, 10 to 35 acres limited to 10 horsepower; prohibited on Snake Lake, maximum of 7½ horsepower on Round Valley Lake.
Riverside	Any land owner prohibited from permitting launching unless such launching complies with ordinance provisions, rafts must be permanently anchored
San Bernardino	Any boat engaged in trolling must fly a white flag two feet by two feet.
San Joaquin	Motorboating prohibited under 300 acres, notices one-quarter mile; boating prohibited within 500 feet of any dam
San Luis Obispo	Water skiing and pleasure boating permitted at alternate one-hour intervals; boating permitted between 10 a m and 5 p m only, boats shall operate counterclockwise, boats limited to 10 horsepower except on Sundays and legal holidays
Santa Clara	In event of accident operator must stop and render aid and shall report within 24 hours to sheriff
Shasta	Illegal to operate a boat within 1,000 feet of Shasta Dam
Sierra	Prohibited to use drag or apparatus which will stir up water bed; unlawful to operate motorboats on Upper Tamarack, Lower Tamarack, Packer and Lower Salmon.
Sonoma	All boats on Russian River must move on side furthest from beach; no boat passing a beach shall make a left or right turn except in course of mooring
Stanislaus	No operation of motorboats on surface less than 300 acres, signs posted one-quarter mile intervals
Tuolumne	None
State Park	No aircraft shall land.

County	*Owner's permission*	*Citation and promise to appear*	*Penalty*
Colusa	Yes	Yes	Yes; $500 fine; six months county jail, or both.
Del Norte	None	None	Yes, $500 fine; six months county jail; or both
El Dorado	Yes	None	Yes, $500 fine; six months county jail; or both.
Fresno	None	None	Yes; $500 fine; six months county jail, or both.
Glenn	Yes	Yes	Yes, $500 fine, six months county jail, or both
Imperial	None	None	Yes, $200 fine; three months county jail; or both
Kern	Yes	None	Yes, $500 fine, six months county jail, or both
Lake	None	None	Yes; except on Clear Lake $500 fine; six months county jail, or both, Blue Lakes, $500 fine; three months in county jail or both
Lassen	Yes	None	Yes; $500 fine, six months county jail or both.
Madera	Yes	None	Yes; $500 fine; six months county jail or both.
Merced	Yes	None	Yes, $500 fine, six months county jail; or both.
Placer	None	Yes	Yes, $500 fine, six months county jail, or both.
Plumas	Yes	None	Yes; $500 fine, six months county jail, or both
Riverside	None	None	Yes, $500 fine, six months county jail, or both
San Bernardino	Yes	Yes	Yes; $500 fine, six months county jail; or both.
San Joaquin	None	Yes	Yes, $500 fine, six months county jail; or both
San Luis Obispo	None	Yes	Yes, $500 fine; six months county jail, or both
Santa Clara	None	None	Yes, $500 fine; six months county jail, or both
Shasta	Yes	Yes	Yes, $500 fine, six months county jail, or both
Sierra	None	None	Yes, $500 fine, six months county jail, or both
Sonoma	None	None	Yes, $500 fine, three months county jail or both, but not less than $10 fine and five days in county jail, or both
Stanislaus	None	Yes	Yes, $500 fine; six months in county jail, or both
Tuolumne	Yes	None	Yes; $500 fine, six months county jail; or both
Ventura	None	None	Yes; $500 fine; six months county jail, or both
State Park	None	None	Yes, $500 fine, six months county jail, or both

County	*Area limitations of ordinances*
Colusa	Sacramento River and East Park Reservoir only
Del Norte	All waters unless noted
El Dorado	All waters unless noted
Fresno	All waters unless noted
Glenn	All waters unless noted
Imperial	All waters unless noted
Kern	Applied to 1,000 surface acres or more
Lake	Clear Lake, Cache Creek and the Blue Lakes
Lassen	All waters unless noted
Madera	Applies to 1,000 surface acres or more
Merced	Waters under control of Park and Recreation Commission
Placer	All waters unless noted
Plumas	All waters unless noted
Riverside	1000 surace acres or more or 10 miles from any incorporated city
San Bernardino	Lake Arrowhead and Big Bear Lake only
San Joaquin	All waters unless noted
San Luis Obispo	By park custodian on Atascadero Lake only.
Santa Clara	All waters unless noted
Shasta	Shasta Lake only
Sierra	All waters unless noted
Sonoma	All waters unless noted
Stanislaus	All waters unless noted
Tuolumne	350 acres surface area or more at 5,500 foot elevation only
Ventura	Matilija Lake only—motorboats prohibited
State Park	All State Parks

EXHIBIT B

STATE OF CALIFORNIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF SMALL CRAFT HARBORS

CALIFORNIA REGISTERED BOATS

(Figures shown are the number of boats registered with the various county assessors)

October 1, 1958

County	Rowboats	Sailboats	Inboards	Outboards	Coast Guard	Documented	Miscellaneous	Total
Alameda	285	543	1,321	4,795		175	83	7,202
Alpine								34
Amador	30		2	67				99
Butte			118	1,725			5	1,848
Calaveras	1	2	3	83	5			94
Colusa					25			515
Contra Costa	1,916	143		4,533			118	6,710
Del Norte	516	1		247		85		849
El Dorado	120	6	70	577			11	784
Fresno					10			4,510
Glenn	14	4	21	360	11		1	411
Humboldt	432	16		2,277	379	97	43	3,244
Imperial	53			490	34		9	586
Inyo	77		3	82			1	163
Kern	217	3	434	2,446				3,100
Kings		5	58	367		13	1	444
Lake	300	40	160	970	122		25	1,617
Lassen	75	1	1	321		2		400
Los Angeles					9,000	850		37,850
Madera	38	3	100	530	4		10	685
Marin	400	200	800	1,100		150		2,650
Mariposa					1			8
Mendocino					140	75		1,215
Merced		24	50	686	32		1	793
Modoc				225				225
Mono	274			49				323
Monterey	100	25	700	700	425	160		2,110
Napa	55	2	20	910	121		7	1,115

Nevada	80	5	6	372	4		16	483
Orange	710	1,900		4,895	3,980	230		11,715
Placer					320			1,520
Plumas	88	2	6	608	7			711
Riverside					200			1,900
Sacramento	565	65		7,567	1 050	27	1,250	10,521
San Benito								88
San Bernardino	763	51	279	2,238			5	3,336
San Diego					3,300	587		9,287
San Francisco					819	267		3,241
San Joaquin					893			4,160
San Luis Obispo	62	11	20	739	202	64		1,098
San Mateo	35	140	2,000	940		44		3,159
Santa Barbara	140	144	20	1,075	416	63	246	2,131
Santa Clara		145						4,178
Santa Cruz	92	15		673	125	11	20	936
Shasta					35			2,495
Sierra								4
Siskiyou			12		5			620
Solano					450	21		2,221
Sonoma	335	12	26	1,246		35	304	1,958
Stanislaus	355	16	305	2,297			19	3,022
Sutter	22	1	62	630			3	718
Tehama					3			609
Trinity			4	41				45
Tulare								1,407
Tuolumne	32		7	288	3		4	388
Ventura	221	12	80	1,165	11	2		1,491
Yolo					170	1		1,172
Yuba	11		13	388				412
Total number of boats registered with county assessors								154,916
Probable number of boats not registered								70,900
Estimated total of all boats in California, October 1, 1958								225,816
Approximate increase in California during 1957-1958								19 0%

FLOYD H. VANCE
Division Statistician

EXHIBIT C

STATE BOAT ACT

SECTION 1. Declaration of Policy. It is the policy of this State to promote safety for persons and property in and connected with the use of vessels and to promote uniformity of laws relating thereto.

(No change suggested.)

SECTION 2. Definitions. As used in this act, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

(3) "Owner" means a person, other than a lien holder, having the property in or title to a motor boat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another persons, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(4) "Waters of this State" means any waters within the territorial limits of this State and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State.*

(5) "Person" means an individual, partnership, firm, corporation, association or other entity.

(6) "Operate" means to navigate or otherwise use a motorboat or vessel.

(Suggested changes. Subsection 1, Section 2, after the words "transportation on water.", add the words ", but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto." Subsection 2, Section 2, after the words "source of propulsion," delete the words "but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto." It was felt that by adding the words in Subsection 1 of Section 2 and deleting the same words from Subsection 2 of Section 2, greater clarity would be achieved, and it was further pointed out that the term "motorboat" would certainly be included in the term "vessel". Subsection 4, Section 2, it was felt that after the words "adjacent to this State" the words "and the high seas when navigated as a part of a journey or ride to or from the shore of this State." should be deleted. It was felt that this phrase was extremely nebulous and would only make the subsection confusing. The committee staff has asked the Legislative Counsel for an opinion which would clarify the meaning, in a legal sense, as to the disputed phrase.)

SEC. 3. Operation of Unnumbered Motorboats Prohibited. Every motorboat on the waters of this State shall be numbered. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with this act, or in accordance with applicable federal law, or in accordance with a federally-approved numbering system of another state, and

* States which have no seacoast will want to delete this clause.

unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

(*Suggested change of Section 3:* wherever the word "motorboat" appears in Section 3, substitute in lieu thereof the word "vessel". It was the concensus that all boats of whatever description should be numbered and that the word "motorboat" was too limiting.)

SEC. 4. Identification Number. (a) The owner of each motorboat requiring numbering by this State shall file an application for number with the (appropriate state agency) on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of (___) dollars. Upon receipt of the application in approved form, the (appropriate state agency) shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the (appropriate state agency) in order that it may be clearly visible. The number shall be maintained in a legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

(b) The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this State in excess of the 90-day reciprocity period provided for in Section 6 (1) of this act. Such recordation shall be in a manner and pursuant to the procedure required for the award of a number under subsection (a) of this section, except that no additional or substitute number shall be issued.

(c) Should the ownership of a motorboat change, a new application form with fee (or portion thereof) shall be filed with the (appropriate state agency) and a new certificate of number shall be awarded in the same manner as provided for in an original award of number.

(d) In the event that an agency of the United States Government shall have in force an overall system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this act by the (appropriate state agency) shall be in conformity therewith.

(e) The (appropriate state agency) may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the (appropriate state agency), shall be valid as if awarded directly by the (appropriate state agency).

(f) All records of the (appropriate state agency) made or kept pursuant to this section shall be public records.

(g) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period of (one) (two) (three) years unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same.

(h) The (appropriate state agency) shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(i) The owner shall furnish the (appropriate state agency) notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a motorboat numbered in this State pursuant to subsections (a) (b) of this section, or of the destruction or abandonment of such motorboat, within 15 days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number of such motorboat, except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

(j) Any holder of a certificate of number shall notify the (appropriate state agency) within 15 days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the (appropriate state agency) with his new address. The (appropriate state agency) may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(k) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this act shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

(*Suggested changes in Section 4*: It was suggested that in subsection a, Section 4, after the words "the name and address of the owner", the words "the owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the (appropriate state agency) in order that it may be clearly visible. The number shall be maintained in a legible condition", should be deleted. It was the concensus that this was adequately covered by Section 3 and also by subsection (k) of Section 4

Suggested changes for all of Section 4, wherever the word "motorboat" appears, substitute in lieu thereof the word "vessel" It was the concensus that all boats, unless specifically exempted, should be numbered and certificated as provided for in the proposed act.

Subsection (g), Section 4: It was the concensus that the period of time for which a certificate and number should be in force and effect should be for three years.)

SEC 5. Classification and Required Equipment. (a) Motorboats subject to the provisions of this act shall be divided into four classes as follows:

Class A. Less than 16 feet in length.
Class 1. Sixteen feet or over and less than 26 feet in length.
Class 2. Twenty-six feet or over and less than 40 feet in length.
Class 3. Forty feet or over.

(b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of Classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides

(2) Every motorboat of Classes 2 and 3 shall carry the following lights:

First A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel; namely, from right ahead to two points aft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The said side light shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this section Motorboats of Classes 2 and 3, when so propelled, shall carry the colored side lights, suitably screened, but not the white lights prescribed by this section. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(4) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.

(c) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, 1948, Federal Act of October 11, 1951 (33USC 143-147d) as amended, in lieu of the lights required by subsection (b) of this section.

(d) Every motorboat of class 1, 2, or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

(e) Every motorboat of class 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one life preserver, or life belt, or ring buoy, or other device of the sort prescribed by the regulations of the (appropriate state agency) for each person on board, so placed as to be readily accessible. provided. That every motorboat carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the (appropriate state agency) for each person on board.

(g) Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the (appropriate state agency), which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of subsections (d), (e) and (g) of this section shall not apply to motorboats while competing in any race conducted pursuant to Section 13 of this act or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the (appropriate state agency).

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the (appropriate state agency) for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) The (appropriate state agency) is hereby authorized to make rules and regulations modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the Federal Navigation Laws or with the navigation rules promulgated by the United States Coast Guard.

(*l*) The (appropriate state agency) is hereby authorized to establish and maintain for the operation of vessels on the waters of this State pilot rules in conformity with the pilot rules contined in the Federal Navigation Laws or the navigation rules promulgated by the United States Coast Guard.

(m) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

(Suggested changes in Section 5:) Wherever the word "motorboat" is used substitute in lieu thereof the word "vessel." It was the concensus that all boats, unless specifically exempted, should comply with the equipment provisions contained in Section 5 outlined above. However, in the fourth draft of the Council of State Government's small craft safety act there was an alternate Section 5 provided which reads as follows:

"Section 5 Equipment Every motorboat shall have aboard:

(1) One life preserver, buoyant cushion in good and serviceable condition for each person on board.

(2) When in use during hours of darkness, a light sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.

(3) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.

(4) Such additional equipment designed to promote the safety of navigation and of persons as the (appropriate state agency) may find to be appropriate and for which it has provided in its rules and regulations"

(It was the concensus that the alternate or short Section 5 was not adequate and did not spell out in enough detail what should be required, and that the Section 5, as outlined above, in the fifth draft, should be the one to be incorporated into any proposed state small craft safety act.)

SEC. 6. Exemption from Numbering Provisions of this Act. A motorboat shall not be required to be numbered under this act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such boat shall not have been within this State for a period in excess of 90 consecutive days.

(2) A motorboat from a country other than the United States temporarily using the waters of this State.

(3) A motorboat whose owner is the United States, a state or subdivision thereof.

(4) A ship's lifeboat.

(5) A motorboat belonging to a class of boats which has been exempted from numbering by the (appropriate state agency) after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if any agency of the Federal Government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the (appropriate state agency) has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

(*Suggested changes in Section 6*: In subsection (2) of Section 6, omit the word "temporarily." It was the consensus that motorboats or vessels of a foreign country were adequately covered by regulations of the Coast Guard and the United States Customs Service. In lieu of the word "motorboat," substitute "vessel" where applicable.)

SEC 7. Boat Liveries (a) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the identification number thereof; and the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

(b) Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat to depart from his premises unless it shall have been provided, either by owner or by renter, with the equipment required pursuant to Section 5 of this act and any rules and regulations made pursuant thereto.

(There were no suggested changes for Section 7.)

SEC. 8. Muffling Devices. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner The use of cutouts is prohibited, except for motorboats competing in a regatta or boat race approved as provided in Section 13 of this act, and for such motorboats while on trial runs, during a period not to exceed 48 hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed 48 hours immediately following such regatta or race

(There was some difference of opinion as to whether or not muffling devices should be required at all, and there was some discussion of omitting the above Section 8 entirely from any proposed small craft act on the state level)

SEC 9. Prohibited Operation. (a) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any other person.

(b) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

(Section 9 might well cause more trouble than other sections contained in the proposed act in that it does not lay down any standard as to what will constitute reckless or negligent operation It might well be that subsections should be added to this section which would establish prima facie rules of reckless operation, such as: (a) speed limits in designated areas; (b) distance clearances from wharves, buoys, swimmers, beaches and so on; (c) a provision whereby local agencies could establish for designated areas prima facie rules which would spell out what would constitute reckless operation within the area so designated; (d) in the event local agencies should be allowed to establish prima facie rules of reckless operation, then the provisions for adequately notifying the boating public by signs along the waters so controlled. The above are merely possibilities and it might well be that no prima facie rules should be established until the small craft act as outlined had been in effect so as to determine whether or not prima facie rules are needed.)

SEC. 10. Collisions, Accidents and Casualties (a) It shall be the duty of the operator of a boat involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars shall file with the (appropriate state agency) a full description of the collision, accident or other casualty, including such information as said agency may, by regulation, require.

(There were no suggested changes for Section 10.)

SEC. 11. Transmittal of Information. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the (appropriate state agency) pursuant to Section 10(b) shall be transmitted to said official or agency of the United States.

(There were no suggested changes for Section 11 of the proposed act.)

SEC 12. Water Skis and Surfboards. (a) No person shall operate a vessel on any waters for towing a person or persons on water skis or a surfboard or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the persons being towed.

(b) No person shall operate a vessel on any waters of this State towing a person or persons on water skis, or surfboard or similar device nor shall any person engage in water skiing, surfboarding or other similar activity at any time between the hours from one hour after sunset to one hour before sunrise.

(c) The provisions of subsections (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under Section 13 of this act.

(d) No person shall operate or manipulate any vessel, towrope or other device by which the direction or location of water skis, a surfboard or similar device may be affected or controlled in such a way as to cause the water skis, surfboard or similar device or any person thereon to collide with or strike against any object or person

(It was suggested a subsection (e) be added to Section 12 which would read substantially as follows: "No person shall operate water skis, a surfboard or similar device in such a manner as to endanger the life, limb or property of any person.")

SEC. 13. Regattas, Races, Marine Parades, Tournaments or Exhibitions. (a) The (appropriate state agency) may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this State It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least 15 days prior thereto, file an application with the (appropriate state agency) for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the (appropriate state agency) in writing

(b) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

(There were no suggested changes for Section 13 of the proposed act. However, it was pointed out that if such a regatta, etc, were held in navigable waters, then a United States Coast Guard permit must be required.)

SEC. 14. Local Regulation Prohibited (a) The provisions of this act, and of other applicable laws of this State shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this State, or when any activity regulated by this act shall take place thereon, but nothing in this act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are identical to the provisions of this act, amendments thereto or regulations issued thereunder, provided, that such ordinance or local laws shall be operated only so long as and to the extent that they continue to be identical to provisions of this act, amendments thereto or regulations issued thereunder.

(b) Any subdivision of this State may, at any time, make formal application to the (appropriate state agency) for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate

(c) The (appropriate state agency) is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this State.

(It was suggested that changes be made in Section 14 so as to enable local agencies to regulate waterways that had specific problems and were within their jurisdiction However, it was also felt that when such local agency did enact local rules and regulations to cover specific problems that such rules and regulations should be posted on the waterway in question so as to inform the boating public as to the requirements peculiar to the waterway and to limit the possibilities of entrapment)

SEC. 15. Owner's Civil Liability. The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this State, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

(It was suggested that there be added to Section 15 a monetary limitation similar to that now contained in the California Vehicle Code, limiting the owner's liability to an absolute sum expressed in dollars)

SEC. 16. Filing of Regulations. A copy of the regulations adopted pursuant to this act, and of any amendments thereto, shall be filed in the office of the (appropriate state agency) and in the office of the (official state recordkeeping agency). Rules and regulations shall be published by the (appropriate state agency) in a convenient form [1]

(There were no suggested changes for Section 16.)

[1] States with laws requiring the publication of regulations will want to correlate this provision with such laws

SEC 17. Enforcement. Every peace officer of this State and its subdivisions shall have the authority to enforce the provisions of this act and in the exercise thereof shall have the authority to stop and board any vessel subject to this act.

(There were no suggested changes for Section 17. However, it was the consensus that at the present time there should not be established any enforcement agency that would be similar to the California Highway Patrol. It was felt that the added expense would not be justified and that such an agency would merely hinder the boating public and would not achieve any degree of safety whatsoever.)

SEC. 18 Penalties (a) Any person who violates any provision of Sections 3, 4, 5, 8, 10 and 13 of this act shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed fifty dollars for each such violation

(b) Any person who violates any provision of Sections 7 and 12 of this act shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars for each such violation

(c) Any person who violates any provision of Section 9 of this act shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars, or imprisonment for not to exceed six months, or both, for each violation

(There were no suggested changes to Section 18. It was suggested that there be some additional sections added to this act to make it more workable, such as: (a) a provision in the act enabling peace officers to cite offenders and receive their written promise to appear; (b) a provision in the act which would extend the venue or jurisdiction of a court so that the offender could be cited to appear in any court bordering upon the waterway on which the offense took place. This would in a great way aid and assist the citation of offenders in that county lines could be disregarded and jurisdictional limitations of justice courts could similarly be disregarded. On the inland waters of the State, many of the county lines are in the center of rivers running along the boundaries of such counties.)

Prepared by Assembly Interim Committee on Public Utilities and Corporations for its Small Craft Harbors and Waterways Development Committee October 21, 1958.

EXHIBIT D

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY PREPRINT BILL No. 4

Proposed by Mr. Cunningham

An act to add Chapter 5 (commencing with Section 650) to Division 3 of the Harbors and Navigation Code, relating to the operation and equipment of vessels.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 650) is
2 added to Division 3 of the Harbors and Navigation Code, to
3 read:
4
5 CHAPTER 5. OPERATION AND EQUIPMENT OF VESSELS
6
7 650. Declaration of Policy. It is the policy of this State to
8 promote safety for persons and property in and connected
9 with the operation and equipment of vessels and to promote
10 uniformity of laws relating thereto.
11 651. Definitions. As used in this chapter, unless the con-
12 text clearly requires a different meaning:
13 (a) "Vessel" means every description of watercraft, other
14 than a seaplane on the water, used or capable of being used
15 as a means of transportation on water
16 (b) "Motorboat" means any vessel propelled by machinery,
17 whether or not such machinery is the principal source of pro-
18 pulsion, but shall not include a vessel which has a valid ma-
19 rine document issued by the Bureau of Customs of the United
20 States Government or any federal agency successor thereto.
21 (c) "Owner" means a person, other than a lienholder, hav-
22 ing the property in or title to a vessel. The term includes a
23 person entitled to the use or possession of a vessel subject to
24 an interest in another persons, reserved or created by agree-
25 ment and securing payment or performance of an obligation,

but the term excludes a lessee under a lease not intended as security.

(d) "Waters of this State" means any waters within the territorial limits of this State and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State.

(e) "Person" means an individual, partnership, firm, corporation, association or other entity.

(f) "Operate" means to navigate or otherwise use a motorboat or vessel upon the waters of this State.

(g) "Undocumented vessel" means any vessel which is not required to have and does not have a valid marine document issued by the Bureau of Customs of the United States or any federal agency successor thereto.

652. Classification and Required Equipment. (a) Motorboats subject to the provisions of this chapter shall be divided into four classes as follows:

Class A. Less than 16 feet in length.

Class 1. Sixteen feet or over and less than 26 feet in length.

Class 2. Twenty-six feet or over and less than 40 feet in length.

Class 3. Forty feet or over.

(b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined lantern in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

(2) Every motorboat of classes 2 and 3 shall carry the following lights:

First. A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel; namely, from right ahead to two points aft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken

1 light over an arc of the horizon of 10 points of the compass, so
2 fixed as to throw the light from right ahead to two points abaft
3 the beam on the port side The side light shall be fitted with
4 inboard screens of sufficient height so set as to prevent these
5 lights from being seen across the bow
6 (3) Motorboats of classes A and 1 when propelled by sail
7 alone shall carry the combined lantern, but not the white light
8 aft, prescribed by this section Motorboats of classes 2 and 3,
9 when so propelled, shall carry the colored side lights, suitably
10 screened, but not the white lights prescribed by this section.
11 Motorboats of all classes, when so propelled, shall carry, ready
12 at hand, a lantern or flashlight showing a white light which
13 shall be exhibited in sufficient time to avert collision.
14 (4) Every white light prescribed by this section shall be of
15 such character as to be visible at a distance of at least two
16 miles Every colored light prescribed by this section shall be
17 of such character as to be visible at a distance of at least one
18 mile. The word "visible" in this subsection, when applied to
19 lights, shall mean visible on a dark night with clear atmosphere.
20 (b) When propelled by sail and machinery any motorboat
21 shall carry the lights required by this section for a motorboat
22 propelled by machinery only.
23 (c) Any vessel may carry and exhibit the lights required by
24 the Federal Regulations for Preventing Collisions at Sea, 1948,
25 Federal Act of October 11, 1951 (33 U. S. C. 143-147d) as
26 amended, in lieu of the lights required by subsection (b) of
27 this section.
28 (d) Every motorboat of class 1, 2, or 3 shall be provided
29 with an efficient whistle or other sound-producing mechanical
30 appliance.
31 (e) Every motorboat of class 2 or 3 shall be provided with
32 an efficient bell.
33 (f) Every undocumented vessel shall carry at least one life
34 preserver, or life belt, or ring buoy, or other device of the sort
35 prescribed by the regulations of the (appropriate state agency)
36 for each person on board, so placed as to be readily accessible:
37 Provided, that every undocumented vessel carrying passengers
38 for hire shall carry so placed as to be readily accessible at least
39 one life preserver of the sort prescribed by the regulations of
40 the (appropriate state agency) for each person on board.
41 (g) Every motorboat shall be provided with such number,
42 size, and type of fire extinguishers, capable of promptly and
43 effectually extinguishing burning gasoline, as may be pre-
44 scribed by the regulations of the (appropriate state agency),
45 which fire extinguishers shall be at all times kept in condition
46 for immediate and effective use and shall be so placed as to be
47 readily accessible.
48 (h) The provisions of subsections (d), (e) and (g) of this
49 section shall not apply to motorboats while competing in any
50 race conducted pursuant to Section 659 or, if such boats be
51 designed and intended solely for racing, while engaged in such

navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the (appropriate state agency)

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the (appropriate state agency) for properly and efficiently ventilating the bilges of the engines and fuel tank compartments so as to remove any explosive of inflammable gases.

(k) The (appropriate state agency) is hereby authorized to make rules and regulations modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States Coast Guard

(*l*) The (appropriate state agency) is hereby authorized to establish and maintain for the operation of vessels on the waters of this State pilot rules in conformity with the pilot rules contained in the federal navigation laws or the navigation rules promulgated by the United States Coast Guard

(m) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

653 Boat Liveries. (a) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel; the identification number thereof; and the departure date and time, and the expected time of return The record shall be preserved for at least six (6) months.

(b) Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel to depart from his premises unless it shall have been provided, either by owner or by renter, with the equipment required pursuant to Section 652 and any rules and regulations made pursuant thereto

654. Muffling Devices The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for motorboats competing in a regatta or boat race approved as provided in Section 659, and for such motorboats while on trial runs, during a period not to exceed 48 hours immediately preceding such regatta or race and for such motorboats while competing in official trials

for speed records during a period not to exceed 48 hours immediately following such regatta or race.

655 Prohibited Operation. (a) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The (appropriate state agency) shall adopt regulations for the operation of motorboats, vessels, water skis, surfboards or similar devices in a manner which will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed Violation of such regulations shall constitute prima facie evidence of negligence pursuant to this section.

(b) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

656. Collisions, Accidents and Casualties (a) It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers, to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars ($100) shall file with the (appropriate state agency) a full description of the collision, accident or other casualty, including such information as (the agency) may, by regulation, require.

657. Transmittal of Information. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the (appropriate state agency) pursuant to subdivision (b) of Section 656 shall be transmitted to said official or agency of the United States

658. Water Skis and Surfboards. (a) No person shall operate a vessel on any waters for towing a person or persons on water skis or a surfboard or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the persons being towed.

(b) No person shall operate a vessel on any waters of this State towing a person or persons on water skis, or surfboard or similar device nor shall any person engage in water skiing, surfboarding or other similar activity at any time between the hours from one hour after sunset to one hour before sunrise

(c) The provisions of subsections (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under Section 659.

(d) No person shall operate or manipulate any vessel, towrope or other device by which the direction or location of water skis, a surfboard or similar device may be affected or controlled in such a way as to cause the water skis, surfboard or similar device or any person thereon to collide with or strike against any object or person.

(e) No person shall operate water skis, a surfboard or similar device in such a manner as to endanger the life, limb or property of any person.

659. Regattas, Races, Marine Parades, Tournaments or Exhibitions (a) The (appropriate state agency) may upon the request of any city, county, city and county, or other political subdivision authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this State. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least 15 days prior thereto, file an application with the (appropriate state agency) for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the (appropriate state agency) in writing.

(b) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefore has been obtained from an authorized agency of the United States.

660. Local Regulation Prohibited (a) The provisions of this chapter, and of other applicable laws of this State shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated on the waters of this State, or when any activity regulated by this chapter shall take place thereon; but nothing in this chapter shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are not in conflict with the provisions of this chapter; except, that such ordinance or local laws shall be operative only upon the waters within the sole jurisdiction of the city, county, city and county, or other political subdivision adopting such ordinance or local law.

(b) Any city, county, city and county, or other political subdivision may, at any time, make formal application to the (appropriate state agency) for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

(c) The (appropriate state agency) is authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of two or more cities, counties, cities and counties or other political subdivisions.

(d) All special rules and regulations and all local ordinances or laws adopted pursuant to the section shall be posted in (three) conspicuous places on or adjacent to the affected waters.

661. Owner's Civil Liability (a) The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this State, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained in this chapter shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained in this chapter shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

(b) The liability of an owner imposed by this section and not arising through the relationship of principal and agent or master and servant is limited to the amount of five thousand dollars ($5,000) for the death of or injury to one person in any one accident and subject to such limit as to one person is limited to the amount of ten thousand dollars ($10,000) with respect to the death of or injury to more than one person in any one accident and is limited to the sum of five thousand dollars ($5,000) for damage to property of others in any one accident.

(c) In any action against an owner under this section the operator of the vessel shall be made a party defendant if personal service of process can be had upon the operator within this State Upon recovery of judgment, recourse shall first be had against the property of the operator so served.

(d) In the event a recovery is had under the provisions of this section against an owner, such owner is subrogated to all the rights of the person injured or whose proeprty has been injured and may recover from such operator the total amount

of any judgment and costs recovered against such owner If the bailee of an owner with the permission, express or implied, of the owner permits another to operate the vessel of the owner, then such bailee and such operator shall both be deemed operators of the vessel of the owner within the meaning of subdivisions (c) and (d) of this section.

(e) Where two or more persons are injured or killed in one accident, the owner may settle and pay any bona fide claim or claims for damages arising out of personal injuries or death, whether reduced to judgment or not, and such payments shall diminish to the extent thereof the owner's total liability on account of such accident; and payments so made aggregating the full sum of ten thousand dollars ($10,000) shall extinguish all liability of the owner hereunder to such claimants and all other persons on account of such accident, which liability may exist pursuant to this section, and not arising through the negligence of the owner nor through the relationship of principal and agent or master and servant.

(f) If a vessel is sold under a contract of conditional sale whereby the title to such vessel remains in the vendor, such vendor or his assignee shall not be deemed an owner within the provisions of this section, but the vendee, or his assignee shall be deemed the owner notwithstanding the terms of such contract, until the vendor or his assignee retake possession of such vessel A chattel mortgagee of a vessel out of possession shall not be deemed an owner within the provisions of this section.

(g) No action provided for in this section shall abate by reason of the death of any injured person or of any person liable or responsible under the provisions of this section; except, that in any action for physical injury contemplated by this section by the executor, administrator or personal representative of any deceased person, the damages recoverable shall be the same as those recoverable under Section 956 of the Civil Code.

662 Filing of Regulations. A copy of the ordinances or local laws adopted pursuant to this chapter, and of any amendments thereto, shall be filed in the office of the (appropriate state agency) and in the Office of the Secretary of State

663 Enforcement Every peace officer of this State or of any city, county, city and county or other political subdivision of the State shall have the authority to enforce the provisions of this chapter and in the exercise thereof shall have the authority to stop and board any vessel subject to this chapter

664. Notice to Appear. (a) When any person is arrested for a violation of this chapter or any ordinance or local law relating to the operation and equipment of vessels, and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to

appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

(b) The time specified in the notice to appear must be at least five (5) days after such arrest.

(c) The place specified in the notice to appear shall be either:

1. Before a judge of a justice court or a municipal court judge within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and who is nearest and most accessible with reference to the place where the arrest is made; or

2. Upon demand of the person arrested, before a judge of a justice court or a municipal court judge having jurisdiction of such offense at the county seat of the county in which such offense is alleged to have been committed; or before a judge in the judicial district in which the offense is alleged to have been committed.

3. Before an officer authorized by the county, city or city and county, to receive a deposit of bail.

4. Before a judge of a justice court or a municipal court judge within 50 miles by the nearest road to the place of the alleged offense who has jurisdiction of the offense and whose judicial district contains any portion of the body of water upon which the offense charged is alleged to have been committed.

(d) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him in the form set forth in Section 815a of the Penal Code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of the Penal Code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

665. Violation of Promise to Appear. Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

666. Warrant of Arrest. When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 664, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised, or if such person promises to appear before an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he promised to appear, then, within twenty (20) days after the delivery of such written promise to appear by the officer to a magistrate having jurisdiction over the offense.

When such person violates his promise to appear before an officer authorized to receive bail other than a magistrate, the officer shall immediately deliver to the magistrate having jurisdiction over the offense charged the written promise to appear and the complaint, if any, filed by the arresting officer.

667. Place of Trial. In addition to any other court which may be a proper place of trial, any justice or municipal court within 50 miles by the nearest road to the place of the alleged offense having jurisdiction of the offense shall be a proper place of trial of any person on a charge of violation of this chapter or any ordinance or local law relating to the operation and equipment of vessels if the justice or municipal court district includes any portion of the body of water upon which the offense charged is alleged to have been committed.

668. Penalties. (a) Any person who violates any provisions of Sections 652, 654, and 659 of this code is guilty of a misdemeanor and shall be subject to a fine of not to exceed fifty dollars ($50) or imprisonment in the county jail for not to exceed five days, or both for each violation.

(b) Any person who violates any provisions of Section 653 or subdivisions (a) and (b) of Section 658 of this code is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) for each violation.

(c) Any person who violates any provision of Sections 655, 656, or subdivisions (d) and (e) of Section 658 of this code is guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500) or imprisonment in the county jail for not to exceed six months, or both, for each violation

O

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY PREPRINT BILL No. 5

Proposed by Mr. Cunningham

An act to add Chapter 4 (commencing with Section 600) to Division 3 of the Harbors and Navigation Code, relating to the registration of vessels.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4 (commencing with Section 600) is
2 added to Division 3 of the Harbors and Navigation Code, to
3 read:
4 CHAPTER 4 REGISTRATION OF VESSELS
5
6 600. Declaration of Policy. It is the policy of this State
7 to promote safety for persons and property in and connected
8 with the operation and equipment of vessels and to promote
9 uniformity of laws relating thereto.
10 601. It is the intention of the Legislature in the enactment
11 of this chapter to occupy the field which is the subject matter
12 of this chapter, to the exclusion of local ordinances or laws on
13 the same subject
14 602. Definitions. As used in this chapter, unless the con-
15 text clearly requires a different meaning:
16 (a) "Vessel" means every description of watercraft, other
17 than a seaplane on the water, used or capable of being used
18 as a means of transportation on water
19 (b) "Owner" means a person, other than a lien holder,
20 having the property in or title to a vessel. The term includes
21 a person entitled to the use or possession of a vessel subject
22 to an interest in another persons, reserved or created by agree-
23 ment and securing payment or performance of an obligation,
24 but the term excludes a lessee under a lease not intended as
25 security.

(c) "Waters of this State" means any waters within the territorial limits of this State and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the short of this State.

(d) "Person" means an individual, partnership, firm, corporation, association or other entity.

(e) "Operate" means to navigate or otherwise use a vessel upon the waters of this State.

(f) "Undocumented vessel" means any vessel which is not required to have and does not have a valid marine document issued by the Bureau of Customs of the United States or any federal agency successor thereto.

603 Operation of Unnumbered Undocumented Vessels Prohibited. Every undocumented vessel on the waters of this State shall be numbered. No person shall operate or give permission for the operation of any undocumented vessel on such waters unless the undocumented vessel is numbered in accordance with this chapter, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless (1) the certificate of number awarded to such undocumented vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such undocumented vessel.

604 Identification Number. (a) The owner of each vessel requiring numbering by this State shall file an application for number with the (appropriate state agency) on forms approved by it The application shall be signed by the owner of the vessel and shall be accompanied by a fee of three dollars ($3). Upon receipt of the application in approved form, the (appropriate state agency) shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner The owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as may be prescribed by rules and regulations of the (appropriate state agency) in order that it may be clearly visible. The number shall be maintained in a legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.

(b) The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall make application within thirty (30) days after the ninety (90) day reciprocity period provided for in Section 605. Such application shall be in a manner and pursuant to the procedure required for the award of a number under subdivision (a) of this section

(c) Should the ownership of an undocumented vessel change, a new application form with fee (or portion thereof)

shall be filed with the (appropriate state agency) and a new certificate shall be awarded in the same manner as provided for in an original award of number and the number shall be reassigned to the new owner.

(d) In the event that an agency of the United States Government shall have in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this chapter by the (appropriate state agency) shall be in conformity therewith.

(e) The (appropriate state agency) may award any certificate of number or temporary certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this chapter and with any rules and regulations of the (appropriate state agency), shall be valid as if awarded directly by the (appropriate state agency).

(f) All records of the (appropriate state agency) made or kept pursuant to this section shall be public records.

(g) Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of (one) (two) (three) years unless sooner terminated or discontinued in accordance with the provisions of this chapter. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same.

(h) The (appropriate state agency) shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this chapter.

(i) The owner shall furnish the (appropriate state agency) notice of the transfer of all or any part of his interest, other than the creation of a security interest, in an undocumented vessel numbered in this State pursuant to subsections (a) (b) of this section, or of the destruction or abandonment of such undocumented vessel, within 15 days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number of such undocumented vessel, except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such undocumented vessel, such transfer shall not terminate the certificate of number.

(j) Any holder of a certificate of number shall notify the (appropriate state agency) within 15 days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the (appropriate state agency) with his new address. The (appropriate state agency) may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(k) No number other than the number awarded to an undocumented vessel or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such undocumented vessel.

605. Exemption from Numbering Provisions. An undocumented vessel shall not be required to be numbered under this chapter if it is:

(a) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such undocumented vessel shall not have been within this State for a period in excess of 90 consecutive days.

(b) A vessel from a country other than the United States temporarily using the waters of this State.

(c) A vessel whose owner is the United States, a state or subdivision thereof.

(d) A ship's lifeboat.

(e) Any vessel belonging to a class of boats which has been exempted from numbering by the (appropriate state agency) after said agency has found that the numbering of vessels of such class will not materially aid in their identification; and, if any agency of the Federal Government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the (appropriate state agency) has further found that the vessel would also be exempt from numbering if it were subject to the federal law.

606. Penalties. Any person who violate any provision of this chapter is guilty of a misdemeanor and shall be subject to a fine of not to exceed fifty dollars ($50) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

607. Notice to Appear. (a) When any person is arrested for a violation of this chapter and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

(b) The time specified in the notice to appear must be at least five (5) days after such arrest.

(c) The place specified in the notice to appear shall be either:

1. Before a judge of a justice court or a municipal court judge within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and who is nearest and most accessible with reference to the place where the arrest is made; or

2. Upon demand of the person arrested, before a judge of a justice court or a municipal court judge having jurisdiction of such offense at the county seat of the county in which such offense is alleged to have been committed; or before a judge

in the judicial district in which the offense is alleged to have been committed.

3. Before an officer authorized by the county, city or city and county, to receive a deposit of bail.

4. Before a judge of a justice court or a municipal court judge within 50 miles by the nearest road to the place of the alleged offense who has jurisdiction of the offense and whose judicial district contains any portion of the body of water upon which the offense charged is alleged to have been committed.

(d) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him in the form set forth in Section 815a of the Penal Code The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of the Penal Code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment as required by law.

608. Violation of Promise to Appear. Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

609 Warrant of Arrest. When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 607, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised, or if such person

1 promises to appear as promised, or if such person promises
2 to appear before an officer authorized to accept bail other than
3 a magistrate and fails to do so on or before the date which
4 he promised to appear, then, within twenty (20) days after
5 the delivery of such written promise to appear by the officer
6 to a magistrate having jurisdiction over the offense.
7 When such person violates his promise to appear before an
8 officer authorized to receive bail other than a magistrate, the
9 officer shall immediately deliver to the magistrate having juris-
10 diction over the offense charged a written promise to appear
11 and the complaint, if any, filed by the arresting officer.
12 610. Place of Trial. In addition to any other court which
13 may be a proper place of trial, any justice or municipal court
14 within 50 miles by the nearest road to the place of the alleged
15 offense having jurisdiction of the offense shall be a proper
16 place of trial of any person on a charge of violation of this
17 chapter or any ordinance or local law relating to the operation
18 and equipment of vessels if the justice or municipal court
19 district includes any portion of the body of water upon which
20 the offense charged is alleged to have been committed.

O

HOUSE RESOLUTION NO. 59

REPORT ON ACQUISITION OF PUBLIC UTILITY PROPERTY IN CONNECTION WITH UNITS OF THE CENTRAL VALLEY PROJECT

HOUSE RESOLUTION NO. 59

By Mr. Lowrey

Relative to the acquisition of public utility property in connection with units of the Central Valley Project

WHEREAS, Under existing law the State may not acquire property of a public utility in connection with the construction of any works authorized as part of the Central Valley Project unless it substitutes for the facilities to be acquired new facilities of like character and at least equal in usefulness with suitable adjustment for any increase or decrease in the costs of operation and maintenance thereof, or unless such acquisition is permitted by agreement executed between the State and the public utility; and

WHEREAS, This is a special provision applicable to public utility property, since as to all other private property the State may acquire such property by condemnation, paying the fair market value thereof; now, therefore, be it

Resolved by the Assembly of the State of California, That the Committee on Rules be requested to assign to the appropriate interim committee the subject of this special provision relating to the acquisition of public utility property in connection with works authorized to be constructed as part of the Central Valley Project and the possible revision of the law to place such acquisition of property on the same basis as the acquisition of other private property subject to condemnation.

PERSONS APPEARING AND TESTIFYING BEFORE THE COMMITTEE

J. B. BALCOMB, Senior Utilities Engineer, California Public Utilities Commission

RODERICK B. CASSIDY, Assistant Chief Counsel, California Public Utilities Commission

C. LYN FOX, Acting President, California Public Utilities Commission

MARK NOSLER, Senior Attorney, California Department of Water Resources

DEL SARBER, Special Representative of Harvey Banks, Director, Department of Water Resources

WALTER G. SCHULZ, Chief, Design and Construction Division, Department of Water Resources

FRED T. SEARLS, Chief Attorney, Pacific Gas and Electric Company

BROLEY E. TRAVIS, Chief, Valuation Division, State Board of Equalization

A hearing on House Resolution No. 59, 1958 Extraordinary Session, was held on August 20, 1958, by the Assembly Interim Committee on Public Utilities and Corporations in Room 4202, State Capitol, Sacramento, California.

EFFECT OF HOUSE RESOLUTION NO. 59

House Resolution No 59, 1958 First Extraordinary Session, is a resolution directing attention to Article 3 of Chapter 6 of Division 6 of the Water Code of the State of California This article, chapter and division constitutes Sections 11590, 11591, and 11592 of the Water

Code relating to the condemnation of certain types of property which may be acquired in connection with the construction of any works authorized as part of the Central Valley Project. (See Exhibit A.)

REASON FOR THE ADOPTION OF HOUSE RESOLUTION NO. 59

Assemblyman Lloyd Lowrey, the author of House Resolution No. 59, told the committee that he had introduced the resolution because it was his understanding that the Department of Water Resources was asking for between 30 and 40 million dollars to purchase the Las Plumas or Big Bend power facilities. Upon checking with the State Board of Equalization, Mr. Lowrey learned that the facilities were assessed at $6,794,935. Mr. Lowrey felt that if the assessed value was 50 percent of market value, then the fair market value of the facilities would be $13,589,870 and that Sections 11590, 11591, and 11592 of the Water Code of the State of California gave private utilities a special privilege as far as the acquisition of property was concerned.

VALUATION OF UTILITY PROPERTIES IN CALIFORNIA

Private utility properties in California are given values by two important state agencies, the California Public Utilities Commission and the California State Board of Equalization. The Public Utilities Commission values utility properties for the purpose of establishing a fair rate that the utility in question will be allowed to charge the public for the service. California is a historical rate-base State. That means that the California Public Utilities Commission has taken the position that only the actual money that has been expended on property, less the normal depreciation, represents the property that is devoted to the public use. In that respect the rate base, on which the commission fixes rates, has very little or no relation to the current fair value of the property. The Public Utilities Code also provides that if the State or a political subdivision desires, the State or political subdivision may file with the commission a petition asking the commission to fix the just compensation to be paid for utility property being taken under condemnation. The State Board of Equalization values public utility properties for the purpose of assessment and the levying of taxes.

VALUATION OF UTILITY PROPERTIES BY THE PUBLIC UTILITIES COMMISSION IN CONDEMNATION PROCEEDINGS

The Public Utilities Commission is required to fix the just compensation of public utility properties in condemnation proceedings as of the day the petition is filed with the commission. The commission must arrive at a figure of just compensation and if severance damages are involved, the amount of money to be paid as such severance damages.

Just compensation is a figure that represents the fair market value of the property and all rights being taken, viewed as a going concern and reflecting an existing business. It is more difficult to measure the fair market value of a utility system than of other properties and it is much more difficult to measure the fair market value of only a portion of a utility system if only a portion is being taken. In fixing the amount of just compensation the commission considers reproduction costs new

less depreciation or life expectancy of the existing system, the earning capacity of the property and severance damage or damage to the balance of the system, if only a portion is taken. The parties to the proceedings present evidence of fair market value. The commission then, based upon the entire evidence of the record, arrives at a judgment figure based upon the entire record of the proceedings of the amount of just compensation expressed in dollars.

The commission's decision, fixing the dollar value, is binding upon the superior court. The court must decide all other questions that may be involved in the eminent domain proceeding, such as the power to condemn and other questions, other than the dollar amount of just compensation.

PUBLIC UTILITY COMMISSION ACTION UNDER THE WATER CODE

Under the Sections 11590, 11591 and 11592 of the Water Code, the commission would be required to determine the character and location of the new substitute facilities, which facilities would have to be at least equal in usefulness to the facilities being taken, and there would have to be an adjustment for any increase or decrease in operating and maintenance costs.

VALUATION OF UTILITY PROPERTY BY STATE BOARD OF EQUALIZATION

The State Board of Equalization uses four general mathematical computations in establishing the value of a public utility. These four indices are to determine the value of all the operating property of a company as a unit. The unit value must be found as court decisions have held that all portions of an operating company work together and must be valued accordingly.

Historical cost less depreciation is one of the indices for finding value. To establish this value the board uses the original cost of the property less the book depreciation, as shown on the company books. The value of this index is that it is the measure of what the company is entitled to earn.

Reproduction cost new less depreciation is the second method of finding a value. The board factors the original cost by cost indices to establish the present value of the property, then it makes a computation of depreciation using the age life sinking fund method. That is the age of the property with the estimated life of the property. This is not the same depreciation as is shown on the books of the company.

The third index of value used by the board is based upon the earning power of the company. This is called the capitalization of net income method. This value must be considered as a buyer must consider how much has the property earned or can it earn.

The fourth method used by the board is that which is called the stock and debt value of the company. Usually the only way a utility company could be sold would be through the sale of its securities. The market value of the total of the securities of the company would tend to establish the value of that company.

BOARD OF EQUALIZATION VALUATION OF PACIFIC GAS AND ELECTRIC COMPANY TOTAL SYSTEM AND VALUATION OF BIG BEND OR LAS PLUMAS PROJECT

The board, using the reconstruction new less depreciation method, established a value of two billion, six hundred sixty-six million, some thousand dollars for the year 1957. At the same time the board established a fair market value of $1,864,000,000 for the entire properties belonging to the Pacific Gas and Electric Company, which is approximately 70 percent of the value of the company based upon reconstruction new less depreciation. Of the total valuation of the company, the Big Bend or Las Plumas system had been given an allocated market value of $13,629,500 and at the same time had been given a value of $18,854,188 for reproduction cost new less depreciation. The $13,629,500 is the allocated market value. When that figure shows on the board roll it is at 50 percent of that amount of money. At the same time the undepreciated original cost figures show that the historical cost of the Big Bend or Las Plumas system would be $7,833,591. (See Exhibits B and C.)

POSITION OF THE DEPARTMENT OF WATER RESOURCES RELATIVE TO THE ACQUISITION OF THE BIG BEND OR LAS PLUMAS SYSTEM

No negotiations for the purchase of the Big Bend Power Plant have been entered into with the Pacific Gas and Electric Company and no funds are available for such purchase. The matter was discussed with Pacific Gas and Electric Company officials, however, in connection with the preparation of Feather River Project preliminary cost estimates and the company, by letter of August 2, 1954, recommended the use of a figure of $33,000,000 for the purpose of financial studies. The company's actual estimate of the net value of the Big Bend Plant, on the basis of costs prevailing at the time the estimate was made, was $27,000,000. This estimated figure was understood to have been based on the capitalized cost of producing an equivalent amount of power in a steam plant with the price of oil at $1 85 per barrel.

The department recently prepared an estimate relative to the Big Bend plant. For the purpose of the study, operation reports from 1916 to 1954 were considered. It was found that the average annual generation was 450,000,000 kilowatt-hours The cost of producing similar power in a steam plant was found to be $2,637,000 per year Deductible from this figure is the company's annual cost of operation which was estimated to be $1,479,000. The remaining $1,158,000 after the deduction, was capitalized at the company's 5 75 percent rate of return and the result was the figure of $20,139,000. There was added to the capitalized figure the depreciated book value of the company which represents an amount of $4,684,000 and there was added to these sums a 10 percent contingency allowance. The total estimated cost to the State for the acquisition of the Big Bend Power Plant as the result of this study was $27,305,000

Although the Department of Water Resources has been successful in the past in negotiating satisfactory agreements with railroads, public utilities and highway authorities for providing substitute facilities, if the situation develops where a public utility refuses to agree on terms

satisfactory to the State, the department will present detailed plans and specifications for substitute facilities to the Public Utilities Commission and ask for a determination of what facilities would constitute "facilities of like character and at least equal in usefulness."

POSITION OF PACIFIC GAS AND ELECTRIC COMPANY RELATIVE TO THE CONDEMNATION OF BIG BEND OR LAS PLUMAS POWER PLANT

At the same time that the P. G. & E. presented its estimate of the value of the Big Bend Power Plant to the Department of Water Resources, it also presented a figure to the State Engineer as to the price it would be willing to pay for power generated by the Oroville project. The Oroville Power Plant would be a huge plant generating some 400,000 kilowatts, which is some six times the size of the Big Bend Power Plant presently being operated by P. G. & E. The P. G. & E. estimated what it would be willing to pay for Oroville Power Plant power and then used the same figures to arrive at a figure that it would ask the State to consider paying P. G. & E. for the Big Bend Plant. The P. G. & E. based its figures primarily on alternative costs of generating power itself in a modern steam plant. The P. G. & E. contends that if it exaggerated the price which it asked the State to pay for the Big Bend plant it would be exaggerating the price it would be offering to pay the State for Oroville power. The P. G. & E. contends that is the price it put on it and it will either buy or sell at that price.

FINDINGS OF THE COMMITTEE

1. That the sum of $13,415,800 does not show the true value of the Big Bend Power Plant but is a figure that is used for the purpose of allocating tax moneys only.
2. That the reconstruction new less depreciation cost of the Big Bend Power Plant would be $18,854,188. Severance damages would be added to this figure in arriving at just compensation for the system.
3. That the various officials of the State having to do with the acquisition of property for state purposes will be presumed to act in the very best interest of the State at all times and will acquire such property at a figure most beneficial to the State
4. That where there is a possibility of large severance damages, as would ordinarily be the case when railroad, state agency or public utility property is taken, the alternative of providing new facilities of like character is beneficial in that there is a minimum of economic dislocation in the area and lengthy litigation is avoided.
5. At the present there is no evidence that a special privilege is being given to public utilities other than the guarantee that they will be allowed to carry on their functions during the construction of the Central Valley Project.

RECOMMENDATIONS OF THE COMMITTEE

In view of the findings the committee does not feel that legislation relative to Sections 11590, 11591 and 11592 is warranted at this time.

EXHIBIT A

ARTICLE 3 OF CHAPTER 6 OF DIVISION 6 OF THE WATER CODE OF THE STATE OF CALIFORNIA

Article 3. Acquiring Facilities of Public Utilities and State Agencies

Limitation on Powers

11590. The department has no power to take or destroy the whole or any part of the line or plant of any common carrier railroad, other public utility, or state agency, or the appurtenances thereof, either in the construction of any dam, canal, or other works, or by including the same within the area of any reservoir, unless and until the department has provided and substituted for the facilities to be taken or destroyed new facilities of like character and at least equal in usefulness with suitable adjustment for any increase or decrease in the cost of operating and maintenance thereof, or unless and until the taking or destruction has been permitted by agreement executed between the department and the common carrier, public utility, or state agency.

(Amended by Stats 1957, Ch. 1932.)

Expense

11591. The expense of the department in complying with the requirements of this article is part of the cost of constructing the project.

(Amended by Stats. 1957, Ch. 1932.)

Controversies

11592. In the event the department and any common carrier railroad, other public utility, or state agency fail to agree as to the character or location of new facilities to be provided as required in this article, the character and location of the new facilities and any other controversy concerning requirements imposed by this chapter shall be submitted to and determined and decided by the Public Utilities Commission of the State.

(Amended by Stats. 1957, Ch. 1932.)

EXHIBIT B

PACIFIC GAS AND ELECTRIC COMPANY

TOTAL SYSTEM

	1957 Est. RCNLD	*1957 Est Market value*	*Ratio M.V. to RCNLD (percent)*
Total operating property	$2,666,527,144	$1,864,015,420	69 9
Deductions			
Land	35,355,530	35,355,530	100.0
Const. work in progress	67,019,898	33,509,950	50.0
Material and supplies	13,959,580	13,959,580	100 0
Total	$116,335,008	$82,825,060	71 2
Total operating property Less deductions	$2,550,192,136	$1,781,190,360	69.8

EXHIBIT C

PACIFIC GAS AND ELECTRIC COMPANY

BIG BEND PROJECT

	Undepreciated original cost	*RCNLD*	*1957 Allocated market value*	*Ratio M.V. to RCNLD (percent)*
Land	$80,725	$213,700	$213,700	100.0
Improvements				
Big Bend intake	944,936	3,094,235	2,228,700	72.0
Cableways at intake dam	11,273	31,912	23,000	72.1
Tunnel (portion)	811,196	2,070,569	1,466,000	70.8
Roads and trails	21,994	22,945	16,410	71.5
Reel staging shed	280	280	200	71.4
Communication equipment	14,037	14,233	10,250	72.0
Radio equipment	2,764	2,803	2,020	72.1
Garage equipment	366	361	250	69.3
Tunnel (portion)	2,390,856	6,113,499	4,398,000	71.9
Forebays	3,729	8,203	5,910	72.0
Penstock, surge, spillway	583,267	1,645,139	1,185,800	72.1
P. H. building	739,657	2,192,779	1,580,500	72.1
Office and warehouse	5,875	12,916	9,310	72.1
Turbines and generators	932,763	1,666,600	1,200,000	72.0
Accessory electrical equipment	138,912	303,372	218,500	72.0
Miscellaneous pumping plant equipment	129,382	129,128	93,070	72.1
Suspension bridge, tramways	58,522	116,117	93,700	72.1
Clubhouse, dormitory, 3 shift houses, 5 cottages, hoist house, camp buildings and property improvements	169,539	304,509	234,900	77.1
Carport No. 6002 (CWIP)	804	804	400	49.8
Carport No. 6001 (CWIP)	803	803	400	49.8
Roads and trails	18,960	28,594	19,760	69.1
Transmission substation equipment	672,254	779,212	565,700	72.6
Distribution substation structures	4,392	5,170	3,680	71.2
Distribution substation equipment	96,305	96,305	69,340	72.0
Total improvements	$7,752,866	$18,640,488	$13,415,800	72.0
Total land and improvements	$7,833,591	$18,854,188	$13,629,500	72.3

HOUSE RESOLUTION NO. 69

REPORT ON STUDY OF THE PROBLEM OF FINANCING REGULATION OF TRANSPORTATION

HOUSE RESOLUTION NO. 69

By Mr. Pattee

Relating to a study of the problem of financing the regulation of transportation.

WHEREAS, The California Public Utilities Commission is charged with the responsibility of regulating all public utilities and transportation agencies operating in this State; and

WHEREAS, The regulation of transportation is financed primarily from the money collected under the terms of the Transportation Rate Fund Act; and

WHEREAS, The income of the Transportation Rate Fund has been shown to be inadequate to meet current demands upon it, resulting in requests for emergency action by the Legislature to provide funds for the temporary augmentation thereof; and

WHEREAS, Legislative action should be taken to provide stability for the commission's regulatory functions concerning transportation; now, therefore, be it

Resolved by the Assembly of the State of California, That the Public Utilities and Corporations Committee of the Assembly is hereby requested to study the problem of financing the regulation of transportation by the California Public Utilities Commission, which study should include, but not be limited to, an examination of the advisability of continuing, as a matter of public policy, a system whereby the regulated agencies of transportation are required to provide the money used to finance their own regulation.

PERSONS APPEARING AND TESTIFYING BEFORE THE COMMITTEE

R. B. CASSIDY, Assistant Chief Counsel, California Public Utilities Commission

KENNETH G. CLARE, Assistant Professor of Business Administration, University of Southern California

ROBERT E. HANLEY, Legislative Representative, California Farm Bureau Federation

RALPH B. HARLAN, Director of Freight Traffic, California Manufacturer's Association

HENRY A. JACOPI, Assistant Chief, Transportation Division, California Public Utilities Commission

CLAUDE MINARD, General Counsel, California Railroad Association

JAMES W. MULGREW, Director, Transportation Division, California Public Utilities Commission

EUGENE A. READ, California Manufacturer's Association

BERT TRASK, California Trucking Association

ORIGIN OF TRANSPORTATION RATE FUND TAX

Adoption of the transportation rate fund tax is explained largely by two factors:

1. The need for more extensive state regulation of transportation; and

2. The serious financial stress of the State Government which at that time made it difficult to support an expanded regulatory budget for the commission.

The first of these factors may be traced to the entry of numerous unregulated motor carriers into the for-hire transportation business in the early thirties. The expansion of this unregulated business was so rapid and competition for traffic so intense, that destructive rate-cutting caused widespread disruption of common carrier rate structures and impaired the ability of all transportation agencies to afford adequate service Not only the State of California but most other states and also the Federal Government enacted legislation to alleviate the problem. California's Highway Carriers' Act of 1935 had overwhelming support of the Legislature, responsible transportation firms and business generally.

Financing the enlarged regulatory program was a major problem for the Legislature because of the critical condition of state finances.

In view of these conditions, the Legislature necessarily had to develop additional sources of revenue. Among the various new taxes adopted at that time was the transportation rate fund tax.

TRANSPORTATION RATE FUND TAX

The transportation rate fund tax consisted of a levy, payable quarterly, of one-fourth of 1 percent of the gross receipts of each public carrier of property by railroad, express, motor vehicle, freight forwarder and water, and a similar tax on the motor transportation broker. No change in this tax rate has been made since adoption in 1935. In addition to this tax, carriers pay a related tax or fixed fee of $4 per quarter. Penalties are assessed for failure to pay the quarterly levies as required. All of these revenues are placed in the Transportation Rate Fund.

Other revenues of the fund are derived from various filing fees relating to certificates and permits and from sale by the Public Utilities Commission of miscellaneous documents. The certificate and permit fees are as follows. These fees reflect temporary increases effective April 4, 1958, and due to expire on the ninety-first day after final adjournment of the 1959 Session of the Legislature.

1. A $150 certificate fee is required under the Public Utilities Act for each new certificate authorizing service or to sell, mortgage, encumber, lease, assign, or transfer a certificate;

2. A $100 permit fee is required under the Highway Carriers' Act and the City Carriers' Act;

3. A $25 fee is required to sell, mortgage, lease, assign, transfer or otherwise encumber a permit.

According to the Public Utilities Code, "The money in the fund shall be in augmentation of the current appropriation for the support of the commission, and shall be expended by the commission for the purpose of administering and enforcing * * *" transportation provisions of the code.

FINANCING TRANSPORTATION REGULATIONS IN OTHER STATES

Analysis of provisions for financing transportation regulations in states other than California indicates that a variety of financing methods are employed. Analysis is based on data obtained from:

1. Response to questionnaire sent to all state commissions;
2. Commerce clearing house state tax reports.

It is evident that in the West no regulatory tax is levied against any form of transportation in four of the eleven states. Two states impose such a tax or fee only against railroads, one against both railroads and motor carriers and three against railroads, motor common carriers and contract carriers. Therefore, less than a third of the Eleven Western States have as broad an application of the regulatory tax as does California. Status of the law in the other 10 states of the West is as follows:

Arizona. No regulatory tax.

Colorado. Five percent of the revenue from ton-mile and passenger-mile taxes, paid by common and contract carriers, is earmarked for motor carrier regulation. A tax of one-tenth of 1 percent of railroad gross revenue is levied for railroad regulation.

Idaho Four-fifths of the administrative costs of the Public Utilities Commission are assessed against railroads and common and contract motor carriers.

Montana. No regulatory tax.

Nevada. No regulatory tax

New Mexico. No regulatory tax is levied against motor carriers, but there is a tax of one-fourth of 1 percent levied on railroad gross receipts.

Oregon. No regulatory tax is imposed on motor carriers, but there is a tax not to exceed six-tenths of 1 percent on railroad gross receipts.

Utah. Three-fourths of the administrative cost of the Public Service Commission is assessed against common carriers. No assessment is made against contract carriers.

Washington. Regulatory fees, prescribed by the Public Service Commission, subject to maximum levels established by law, are levied against common and contract carriers.

Wyoming. No regulatory tax.

Among the 48 states, no state, other than California, has a regulatory tax or fee based on a fixed percentage of gross revenue which is applicable to all public carriers of property in the State. Three states, New Mexico, Oregon, Wisconsin, have a similar tax, but restrict their application to railroads while a fourth state, Rhode Island, confines its tax to passenger carriers. Eight additional states, Georgia, Idaho, Mississippi, Pennsylvania, South Carolina, Utah, Washington, West Virginia, have regulatory taxes, the level of which is determined by the regulatory agency subject to maximum limits established by law. In six other states, Arkansas, Iowa, Kansas, Missouri, Nebraska, Ohio, a flat fee per truck is levied and in two instances, Colorado and Michigan, regulatory funds are derived from revenues collected on the basis of mileage fees. Three states, New York, Pennsylvania, and Wisconsin, assess commission expenses incurred in formal cases against the carriers involved in such cases but in one of these states, Wisconsin, this assessment does not affect motor carriers. Regulatory taxes or fees

are found to some degree in a total of 22 states but the tax applies to motor truck operations in only 19 states.

Most of the states not having regulatory taxes or fees finance their transportation regulations exclusively by means of legislative appropriations from general funds In two states, Kentucky and North Carolina, at least part of the appropriations come from "highway funds" which are built up largely from gasoline tax revenues. Some states, at least Maine and Oklahoma, permit their commissions to retain revenues from various fees such as those collected for issuance of certificates and permits but it appears likely that substantial supplemental funds were appropriated in these states.

In general, therefore, it is found that only a very few states impose a regulatory tax or fee on all public carriers Further, less than half of the states make such a levy against any segment of transportation.

EFFECT OF THE REGULATORY TAX ON BUSINESS

Although the quarterly tax is imposed directly upon carriers-for-hire, it is proper for the carriers to treat the tax as a business expense and therefore it may be shifted to buyers of transportation service by raising rates. Theory underlying the regulatory tax is that business firms buying service at rates which reflect the tax may pass the cost along by including it in the prices of their products. While the tax frequently is shifted in this manner, some firms, particularly small firms, cannot do so because competition makes it impossible.

The tax discriminates against certain segments of business to the advantage of others. Small business is especially prejudiced by the tax as can be readily explained. A small business usually ships freight in small lots at relatively high rates while a large business usually ships in large quantities and has the benefit of lower rates. Because of the difference in these rates the amount of tax, on a given tonnage, paid by the small firm will be greater than the amount of tax paid by the larger firm

This effect may be illustrated by assuming two Los Angeles shippers of the same commodity, rated Class 1, the first shipping in lots under 4,000 pounds and the second shipping in lots in excess of 20,000 pounds. They both market their products in San Francisco. The comparative tax, on the basis of 500 tons for each shipper, would be $61.50 for the small shipper and $26 25 for the larger shipper. Based on rates in effect October 15, 1958, in Minimum Rate Tariff No. 2 issued by the California Public Utilities Commission. Thus the effect of the tax is that the small firm pays $35.25 more freight charges than the large firm on the same volume of sales simply because of the nature of the tax. In percentage terms, the small lot shipper pays 134 percent more tax on each hundredweight than the larger business. Obviously, the tax is highly discriminatory against small business.

In another way too the tax represents a special burden on small business. Since the tax is levied only against public carriers and not against private operators, a large shipper can avoid the tax completely by purchasing motor vehicles and transporting his own products. Such private transportation is generally not feasible for a small business firm. The smaller business must, therefore, ordinarily use public transportation and consequently bear the burden of the tax.

EFFECT OF THE TAX ON CONSUMERS

Business firms buying carrier services at rates which reflect the regulatory tax may shift the tax to their customers through higher prices so that ultimately the consumer may bear the burden of the tax. Competition sometimes makes it impossible for an individual firm to shift a tax by charging a higher price, but in general and in the long run the burden rests largely upon the consumer.

It is the contention of those who favor the regulatory tax that consumers benefit from regulation and should, therefore, contribute to the regulatory cost The amount of tax borne by the consumer varies directly with the amount of freight cost reflected in the products he buys. Accordingly, those consumers who buy commodities, the prices for which include a relatively large element of transportation cost, pay a comparatively large amount of tax.

Consumer interest in shifted transportation taxes was recognized by the National Association of Railroad and Utilities Commissioners when, in 1952, it strongly urged repeal or great reduction of federal excise taxes on transportation and other utility services in a resolution sponsored by Commissioner Justus F Craemer of California. The effects of the excise tax are very similar to those of the California regulatory tax since both are based on revenue The association stated in its resolution that "* * * the excise taxes on transportation and communication services are inimical to the maintenance of reasonably priced and nondiscriminatory public transportation and communication services. * * *" The 3 percent federal excise tax on transportation of property by public carriers was repealed in 1958.

EFFECT OF THE TAX ON CARRIERS

Superficially it might appear that since transportation companies may shift the tax to buyers of their services no adverse results are experienced by the carriers themselves. This conclusion is not valid, however, because the tax has the effect of weakening or undermining public transportation. The reason for this fact is that the tax does not apply to private transportation, as noted, and may thus be avoided by those shippers who can acquire vehicles for their own hauling needs. That much tax avoidance occurs in this way is indicated by the large percentage of California trucks in the private transportation category—89 percent in 1956. Based on 97,658 commercial and 887,996 total trucks, trailers and tractors in the State. California Public Utilities Commission, Annual Report, Fiscal Year 1956.

Clearly, the quarterly tax on public carriers constitutes discrimination against such carriers in favor of private transportation. The effect of the tax is that it tends to defeat the policy so frequently expressed that the Nation must be assured of a strong and effective public transportation system. On this point, the views of the Interstate Commerce Commission in its latest annual report are pertinent:

> "It should be a matter of deep concern to the Congress as the legislative body, to the public and to shippers, as it is to the commission as the regulatory body, to note the continuing erosion of the traffic of regulated carriers who serve the public generally Although the volume of freight transported by public carriers has

increased, its growth has not kept pace with the general expansion of industrial production. * * *

"The gradual chipping away of the regulated carriers' portion of total freight business has continued partly because of a tax inequality. * * *

"* * * the process of erosion raises the basic qustion of whether the public, and particularly the small shippers, will in the long run lose the advantages of a public transportation system with its open, relatively stable, and properly adjusted rates."

Interstate Commerce Commission, Seventy-first Annual Report, 1957.

While the tax inequality noted in the statement probably refers chiefly to the federal excise taxes on transportation, the conclusion applies as well to the California tax under consideration.

The seriousness of traffic diversion from public to private transportation was observed by Howard Freas, former member of the California Public Utilities Commission and presently Chairman of the Interstate Commerce Commission, when he stated that diversion of traffic from regulated to nonregulated carriers had increased considerably in recent years "to the detriment of our common carriers, the backbone of our transportation system."

It has already been indicated that the primary reason for adopting the regulatory tax in California was the difficulty of financing a greatly expanded regulatory program during the depression. Revenues from the regulatory tax are, of course, earmarked for the special purpose of financing regulations. The practice of dedicating or earmarking large amounts of tax revenue has been sharply criticized, however, as unsound fiscal arrangement. In California, 72 percent of 1955 expenditures escaped legislative control Of this 72 percent, earmarking accounted for around 42 percent and fixed expenditures for the remainder.

While the regulatory tax is a small factor in the total finances of the State of California, any tax should conform to sound taxation principles. Insofar as the revenue from the tax is dedicated to a special purpose it represents some lack of legislative control. In California particularly there is need for greater legislative discretion in the disposition of state revenues.

ROLE OF THE REGULATORY TAX IN CALIFORNIA STATE FINANCE

Total receipts of the Transportation Rate Fund in the Fiscal Year 1956-57 were $2,007,611 of which $1,705,186 or about 85 percent was derived from the quarterly tax, $263,335 or 13 percent from application fees and $39,090 or 2 percent from miscellaneous sources. Obviously, the bulk of the revenue in the fund is obtained from the quarterly tax. (See Exhibit A.)

Rate fund receipts virtually doubled during the period 1950-57. This growth is attributable partly to increases in certificate and permit fees but primarily to the rise in carrier gross revenue upon which the quarterly tax is based. In relation to the overall revenues of the state, rate fund receipts are very small. Throughout the period 1950-57 these receipts represented only one-tenth of 1 percent of total state revenue. (See Exhibit B.)

Expenditures from the Transportation Rate Fund for commission support increased steadily from $1,217,672 in 1950 to $2,041,982 in 1957. Accumulated surplus in the fund declined from $713,603 in 1950 to $445,346 in 1954, then rose to $634,980 in 1956, and declined sharply thereafter. It is anticipated, 1959 Budget submitted, that the balance will fall to $44,823 by June 30, 1959. (See Exhibit C.)

Commission support from the rate fund represents a major part of the total expenditures of the commission. The latter increased from $2,413,566 in 1950 to $4,585,764 in 1957. Between 45 and 51 percent of these expenditures have been covered by support from the rate fund. Thus the transportation industry has been assessed nearly half of the total cost of operating the Public Utilities Commission. Expenses of the commission not covered by the rate fund are appropriated from the general funds since, as previously noted, regulated business other than transportation is not subject to regulatory tax. (See Exhibit D.)

FILING FEES FOR CARRIERS UNDER CALIFORNIA PUBLIC UTILITIES COMMISSION'S REGULATIONS

During the 1958 Session of the Legislature, the filing fees for carriers operating under Public Utilities Commission's regulations were raised from $100 to $150; and applications to transfer were raised from $25 to $150; and the $4 reporting fee to be paid quarterly was levied against each carrier subject to the transportation rate fund tax. These fees went into effect April, 1958, and are to revert back to the original figures 91 days after final adjournment of the 1959 Legislative Session.

At the time of the hearing in Los Angeles on November 21, 1958, the carriers stated that the present fees would have to be maintained if the Public Utilities Commission was not to have a deficit in their next fiscal budget. However, the Public Utilities Commission estimates there will be a substantial deficit in the Fiscal Year 1958-59 including the present fees. (See Exhibit F.)

Opposition to the retention of these fees was given to the committee in the form of testimony by Robert E. Hanley, Legislative Representative of the California Farm Bureau Federation. It was the position of the Farm Bureau that many of the carriers that were subject to these fees were farmers who did part time hauling for their neighbors. The California Farm Bureau Federation takes the position that not only should the fees for application and transfers be lowered but that the present tax should be raised from one-fourth of 1 percent to three-tenths of 1 percent, an increase which would affect all carriers.

INCOME AND EXPENDITURES OF THE TRANSPORTATION RATE FUND

The major portion of the regulatory functions of the Public Utilities Commission has been financed since 1935 by the fees paid into the transportation rate fund. During World War II the fund built up a substantial surplus. The surplus has been used to continue the regulatory function of the commission. As of July 1, 1950, there was a surplus of $713,695. This surplus has shrunk to $84,323 and for the Fiscal Year 1958-59, it is estimated there will be a deficite of $223,039. During the Fiscal Year 1950-51, the expenditures of the commission from the transportation rate fund were $1,330,568 and in the Fiscal Year 1957-58, the expenditures of the commission from the transportation rate

fund were $2,465,806. Since 1950 the commission has increased its expenditures from the transportation rate fund in excess of $1,100,000. (See Exhibit E.)

The commission, for its projected budget of Fiscal Year 1958-59, estimates income of $2,250,000 and expenditures to be charged to the transportation rate fund of $2,557,362 which will mean a monthly deficit of $25,613. A detailed breakdown of the estimated monthly income and projected monthly expenses is contained in Exhibit F. It might be pointed out that the income figures vary from month to month because the income from the one-fourth of 1 percent tax becomes due quarterly. Therefore, there will be greater amounts in one month tapering to a low month and then rising again as the quarterly tax is paid in. (See Exhibit F.)

FINDINGS OF THE COMMITTEE

1. The transportation rate fund tax is a tax that is earmarked for a special purpose and that the acceleration of expenditures by the Public Utilities Commission of regulatory funds are exceeding the revenues received from the transportation rate fund tax.
2. There was not enough information received by the committee to make any findings relative to the tax itself. Whether the tax returns a sufficient yield over costs of administering the act is unknown.

RECOMMENDATIONS OF THE COMMITTEE

1. The committee recommends legislation that would return the revenues received by reason of the transportation rate fund tax to the General Fund of the State of California.
2. The transportation rate fund tax imposes a somewhat greater hardship upon the smaller shipper as compared to those shippers shipping large amounts.
3. That additional studies be made to determine whether there is a sufficient yield from the transportation rate fund tax to warrant its imposition.

EXHIBIT A

COMPARISON OF COMMISSION SUPPORT FROM TRANSPORTATION RATE FUND AND GENERAL FUND DURING FISCAL YEARS 1950-59

Fiscal Year ending June 30	*Total expenditures of Public Utilities Commission*	*Percent supported by transportation Rate Fund*	*Percent supported by General Fund*	*Total percent*
1950	$2,413,566	50.4	49.6	100.0
1951	2,659,183	50.1	49.9	100.0
1952	2,905,219	51.1	48.9	100.0
1953	3,356,533	48.4	51.6	100.0
1954	3,780,533	45.4	54.6	100.0
1955	3,813,912	45.7	54.3	100.0
1956	4,104,183	45.0	55.0	100.0
1957	4,585,764	44.5	55.5	100.0
1958*	5,515,450	44.7	55.3	100.0
1959*	5,676,582	43.9	56.1	100.0

* Estimated

SOURCE California State Controller, "Annual Reports," Fiscal Years, 1950-59 California, "Budget Submitted to Legislature," Fiscal Years 1950-59.

EXHIBIT B

EXPENDITURES FROM TRANSPORTATION RATE FUND AND BALANCE AT END OF FISCAL YEARS 1950-59

Fiscal Year ending June 30	*Expenditures* *	*Balance, June 30*
1950	$1,217,672	$713,603
1951	1,331,527	561,952
1952	1,484,762	533,137
1953	1,624,279	523,441
1954	1,715,515	445,346
1955	1,744,161	470,111
1956	1,847,641	634,980
1957	2,041,982	599,736
1958†	2,464,373	285,363
1959†	2,490,540	44,823

* Includes contributions to State Employees' Retirement Fund.
† Estimates in Budget Submitted to Legislature for Fiscal Year

SOURCE California, "Budget Submitted to Legislature," Fiscal Years 1950-59

EXHIBIT C

REVENUES OF THE TRANSPORTATION RATE FUND COMPARED WITH TOTAL STATE REVENUES DURING FISCAL YEARS 1950-57

(Thousands)

Fiscal Year ending June 30	*Quarterly fees and penalties*	*Total revenue of Transportation Rate Fund*	*Total state revenues*
1950	952	1,008	$833,472
1951	1,130	1,180	1,013,247
1952	1,221	1,455	1,080,595
1953	1,362	1,614	1,152,299
1954	1,411	1,637	1,271,118
1955	1,480	1,769	1,433,851
1956	1,639	2,016	1,577,748
1957	1,720	2,008	1,711,256

SOURCE California, "Budget Submitted to Legislature," Fiscal Years 1950-59

EXHIBIT D

RECEIPTS OF THE TRANSPORTATION RATE FUND DURING THE FISCAL YEAR ENDING JUNE 30, 1957

Revenue Sources	*Amount*	*Percent*
Quarterly fees	$1,705,186	84.9
Application fees	263,335	13.1
Penalties	14,542	.7
Sale of documents and miscellaneous fees	15,589	.8
Interest from surplus money investment fund	8,959	.5
	$2,007,611	100.0

SOURCE: California, "Budget Submitted to Legislature," Fiscal Year July 1, 1958-June 30, 1959, p. 575

EXHIBIT E

PUBLIC UTILITIES COMMISSION
TRANSPORTATION RATE FUND

TREND OF REVENUE, EXPENDITURES AND SURPLUS AS OF JUNE 30th OF YEARS AS SHOWN

Fiscal year		*Revenue*	*Expenditures (Including retirement contributions)*	*Revenue over expenditures + or —*	*Surplus*
Surplus July 1, 1950					$713,695
Actual	1950-51	$1,179,784	$1,330,568	—$150,784	562,911
Actual	1951-52	1,454,988	1,484,569	—29,581	533,330
Actual	1952-53	1,611,390	1,623,994	—9,604	523,726
Actual	1953-54	1,637,135	1,715,174	—78,039	445,687
Actual	1954-55	1,763,870	1,742,580	+21,290	466,977
Actual	1955-56	2,015,644	1,847,641	+168,003	634,980
Actual	1956-57	2,007,099	2,042,343	—35,244	599,736
Actual	1957-58	1,965,938	2,465,806	—499,868	99,868
Refund of overpayment			15,545		84,323
Estimated	1958-59	2,250,000	2,557,362	—307,362	—223,039
Estimated	1959-60	2,400,000	2,677,109	—277,109	—500,148

EXHIBIT F

PRELIMINARY ESTIMATE OF FINANCIAL POSITION ANTICIPATED FOR THE TRANSPORTATION RATE FUND IN THE 1958-59 FISCAL YEAR

(Estimate Based on Conditions Indicated as of October 31, 1958)

Transportation Rate Fund Portion of 1958-59 Budget

	1958-59 Budget	*Average per month*
Estimated Income From Rate Fund	$2,250,000	$187,500
Estimated Expenses Charged to Rate Fund	2,557,362	213,113
Income Deficiency	$(307,362)	$(25,613)

NOTE: Estimated income includes additional revenue anticipated from increases in filing and quarterly fees under Chapter 9, Statutes 1958.

Analyses of Rate Fund—1958-59 Fiscal Year

	Monthly income	*Average monthly expenses*	*Excess of income over expenses*
Balance July 1, 1958			$84,323
July, 1958 [a]	$271,000	$213,113	142,210
August [a]	269,000	213,113	198,097
September [a]	62,000	213,113	46,984
October [a]	363,000	213,113	196,871
November	250,000	213,113	233,758
December	50,000	213,113	70,645
January, 1959	236,000	213,113	93,532
February	246,000	213,113	126,419
March	50,000	213,113	(36,694)
April	250,000	213,113	193
May	226,000	213,113	13,080
June	40,000	213,113	(160,033)

( ) = Red figure.
[a] Actual income
Other months are estimated

NOTE. Not possible to estimate loss of income due to work stoppage in for-hire trucking in August and September Any loss expected to show in November income.

REPORT OF SUBCOMMITTEE ON AERONAUTICS

to

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

House Resolution No. 131, 1957

MEMBERS OF SUBCOMMITTEE

WILLIAM F. MARSH, *Chairman*

CLAYTON A. DILLS
ALAN G. PATTEE
FRANK LUCKEL
CHARLES H WILSON

ROBERT S. THURN, *Consultant*
NORMA WAGGERSHAUSER, *Secretary*

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SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
PUBLIC UTILITIES AND CORPORATIONS
SACRAMENTO, January 13, 1959

HON REX M CUNNINGHAM, *Chairman*
Assembly Interim Committee on Public Utilities and Corporations

DEAR MR CUNNINGHAM: Attached is the report of the Subcommittee on Aeronautics The report presents the results of a subcommittee study conducted during the 1957-59 interim, summarizes the testimony presented at three hearings, and presents the subcommittee findings and recommendations.

The committee wishes to express its appreciation to the many individuals and organizations for valued assistance, the results of which are reflected in this report.

Respectfully submitted,

WILLIAM F. MARSH, Chairman
CLAYTON A. DILLS
FRANK LUCKEL
ALAN G. PATTEE
CHARLES H. WILSON

HOUSE RESOLUTION NO. 131

By Mr. Marsh

Relative to a study to be made by the Assembly Interim Committee on Public Utilities and Corporations

WHEREAS, There have occurred, over the years and, particularly, in recent months, a considerable number of airplane crashes in populated areas in this State, resulting in substantial losses of life and property; and

WHEREAS, This distressing situation warrants the attention of the Legislature and the enactment of such legislation as the Legislature has power to enact to eliminate or reduce this hazard; and

WHEREAS, It is necessary that in the enactment of any such legislation, the Legislature be fully informed; now, therefore, be it

Resolved by the Assembly of the State of California, That in addition to the other studies required to be made by it, the Assembly Interim Committee on Public Utilities and Corporations, created at this session, is hereby authorized and directed to ascertain, study and analyze all facts relating to the operation of aircraft over populated areas, aircraft flight patterns, test flight patterns, air ground control, and any hazards to life or property incident thereto, and the means of eliminating or reducing such hazards, including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Assembly, including in the reports its recommendations for appropriate legislation.

PERSONS APPEARING AND TESTIFYING BEFORE THE SUBCOMMITTEE ON AERONAUTICS OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

J. R. DETTMAN, Air Transport Association of America
WINSLOW S. LINCOLN, California Flying Farmers, Inc.
CLYDE P. BARNETT, Director, California Aeronautics Commission
WOODRUFF DeSILVA, Airport Manager, Los Angeles International Airport
WALTER FELL, California Association of Airport Executives
KEITH McCORMAC, Alpha Aircraft Company
HARRY W LANE, Major, Fifteenth Air Force, March Air Force Base
B. F. McLEOD, Captain, United States Navy, 11th and 12th Naval Districts
RUDOLPH PACHT, 21st Congressional District Democratic Council
CECIL G. ZAUN, Supervisor of Safety, Los Angeles City School District
MRS. FRANK ROLAPP, Public Welfare Director, 31st District, California Congress Parents and Teachers Association
MRS DESSIE G MYERS, President, Lomita Property Owners and Registered Voters Association
VINCENT LECHNER, resident of Lomita
MRS. MARY B. DUNN, Chairman, Air Traffic Safety Committee, 21st Congressional District, Democratic Council
JOHN A. A. THOMSON, Laurel Strathern Improvement Committee
CHARLES W. CARMODY, Executive Director, Office of Air Traffic Control, Civil Aeronautics Administration
OSCAR BAKKE, Director, Bureau of Safety, Civil Aeronautics Board
HAROLD S. MESSERSMITH, Superintendent of Airport Operations, San Francisco International Airport

REASON FOR ADOPTION OF HOUSE RESOLUTION NO. 131 BY THE 1957 REGULAR SESSION OF THE CALIFORNIA STATE LEGISLATURE

On January 31, 1957, a Douglas-owned and -operated DC-7B and an Air Force-owned and Northrop-operated F-89J collided at an elevation of 25,000 feet over the San Gabriel Mountains, approximately three miles northwest of Sunland, California The DC-7B crashed on the playground of the Pacoima Junior High School at Pacoima, California, killing three students and injuring 70 others. The four crew members of the DC-7B, who were the sole occupants, were also killed. The F-89J crashed in the Verdugo Mountains, southeast of the collision location, killing the pilot.

Although the accident at Pacoima Junior High School was the reason for the adoption of House Resolution No. 131, the subcommittee did not investigate the cause of this accident. The Federal Government, acting through the Civil Aeronautics Board, made a complete investigation and report. The Civil Aeronautics Board's full report is included in this report as Exhibit A.

Subcommittee Use of Subpoena Power

Your subcommittee, as a result of the hearings held in San Diego and Bakersfield, felt that it was imperative that testimony be received from the Civil Aeronautics Administration and the Civil Aeronautics Board. Testimony received by the committee at San Diego and Bakersfield was to the effect that the sole jurisdiction to enact regulations regarding operation of aircraft rested with the federal agencies and

responsibility for avoiding air tragedies was a federal responsibility and one in which the State was forbidden to presume.

The Civil Aeronautics Board and the Civil Aeronautics Administration were requested to attend the hearings in San Diego and Bakersfield but did not appear Prior to the hearing held in Los Angeles on May 20, 1958, the committee staff contacted the Civil Aeronautics Board and the Civil Aeronautics Administration requesting their appearance at the May 20, 1958, hearing. The subcommittee chairman, Hon. William F. Marsh, also wrote to Senators Kuchel and Knowland requesting that they use the authority of their office to assure an appearance of the Civil Aeronautics Board and the Civil Aeronautics Administration before the subcommittee In spite of the continued requests to give the subcommittee the benefit of their testimony, representatives of the Civil Aeronautics Board and the Civil Aeronautics Administration refused to appear voluntarily before the committee and give the testimony so vitally needed.

Upon being notified by local representatives of the board and the administration that they did not intend to appear, Mr. William P. Plett, of the Civil Aeronautics Administration, and Mr Philip N. Goldstein, of the Civil Aeronautics Board, were subpoenaed to appear before the subcommittee in Los Angeles, on May 20, 1958. After service of the subpoenas, the subcommittee chairman, Hon William F. Marsh, received letters indicating Mr C W Carmody, Assistant Director of Air Traffic Control, would appear for the Civil Aeronautics Administration in the place of Mr. Plett, and that Mr. Oscar Bakke, Director of the Bureau of Safety of the Civil Aeronautics Board, would appear for Mr. Goldstein.

(See Exhibits D and E—Letters received from Civil Aeronautics Administration and Civil Aeronautics Board as a result of service of subpoenas on Mr. Plett and Mr Goldstein

See Exhibit F—Opinion California Legislative Counsel—relative to service of subpoena upon employee of the Federal Government)

LACK OF CO-OPERATION BY CIVIL AERONAUTICS ADMINISTRATION

On February 6, 1957, Cecil G. Zaun, Supervisor of Safety of the Los Angeles City School District, wrote a letter to the Regional Administrator of the Civil Aeronautics Administration in Los Angeles regarding the James Madison Junior High School in that city. In this letter, he informed the Civil Aeronautics Administration of low flying of aircraft over that school. Mr. Zaun informed the subcommittee that this was the beginning of a series of letters that he had sent to the Civil Aeronautics Administration regarding the protection of school children in his district. At the Los Angeles hearing, May 20, 1958, over one year after the first communication was directed to the Civil Aeronautics Administration, Mr. Zaun had not received a reply to any of his communications. These letters were written on stationery designating that they were letters originating from the office of the Safety Supervisor of the Los Angeles City School District.

Immediately following the tragic Pacoima crash in January, 1957, the Thirty-first District California Congress of Parents and Teachers, representing 122 local associations with a total membership of 130,864 in the San Fernando Valley area, sent a letter to the Civil Aeronautics Administration with four recommendations:

(1) That all aircraft operating within or in the vicinity of congested air traffic areas, whether they are operating according to visual flight regulations or instrument flight regulations, should be required to file a flight plan and be controlled from the nearest CAA communications facility;
(2) That airspace within or in the vicinity of areas designated as congested air traffic areas be reallocated, and that definite flight channels similar to those now used by aircraft departing from and coming into airports within congested air traffic areas, even when flying under visual flight regulations;
(3) That reasonable speed limits be set for all aircraft operating within congested air traffic areas;
(4) That all aircraft operating within congested air traffic areas be required to have two-way radios capable of operation over at least a twenty-mile radius.

At the date of the subcommittee hearing in Los Angeles, May 20, 1958, over one year after this communication was directed to the Civil Aeronautics Administration, no reply had been received.

INABILITY OF STATE TO REGULATE AIRCRAFT WHILE IN FLIGHT

In the recent case of *Allegheny Airlines* v. *The Village of Cedarhurst* (132 F. Supp. 871; affirmed; 238 Fed 2d 812), the federal courts held that the legislative action by the Congress, together with regulations adopted pursuant thereto, have regulated air traffic in the navigable airspace in the interest of safety to such an extent as to constitute preemption in that field As a result of the holding, the Legislature of the State of California added Section 21240 to the Public Utilities Code of the State of California, which reads as follows:

> "21240. This State recognizes the authority of the Federal Government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the commission the power to so regulate and control operation of aircraft or to control use of the airways."

The effect of the enactment of Section 21240 of the Public Utilities Code of the State of California is to spell out clearly and concisely a recognition of an existing fact, i. e., that in the regulation of aircraft in flight the Federal Government has the sole authority to regulate and the sole responsibility for such regulations. (See Exhibits B and C—Opinions California Legislative Counsel.)

HISTORICAL BACKGROUND OF CIVIL AERONAUTICS BOARD AND CIVIL AERONAUTICS AUTHORITY

By the Civil Aeronautics Act of 1938, the Federal Government created the Civil Aeronautics Authority. *This authority was given complete jurisdiction over the entire airspace of the United States.* The Civil Aeronautics Authority was a five-man organization to which reported the Administrator of Civil Aeronautics. The five-man organization, in the field of aviation safety, had broad authority to establish federal policy primarily in the form of civil air regulations. The ad-

ministrator was charged with the responsibility of administering this policy, of implementing it in various forms and insuring compliance by the exercise of enforcement machinery.

In 1940, President Roosevelt, under a Reorganization Act, submitted to the Congress a proposal for the reorganization of the Civil Aeronautics Authority. This proposal called for a separation of the administrator and all his functions from the five-man authority to the Department of Commerce, and the administrator made answerable to the Secretary of Commerce. The Civil Aeronautics Board, on the other hand, retained its judicial and legislative functions independent of the executive branch of government. This proposal, called Organizational Plans 3 and 4, was adopted by the Congress and went into effect in the fall of 1940.

Since that time, the Civil Aeronautics Board accomplishes its regulatory function as an arm of Congress with broad policy powers contained in the Civil Aeronautics Act and on behalf of the Congress in the specialized field of aviation. The administrator has functions more like that of the executive branch of the government. The administrator is the executor of policy and the operator of the Federal Government's vast network of communications, navigation aids, air traffic control services, the Federal Airports Act, and other such functions.

In accordance with the Civil Aeronautics Act as amended by Reorganizational Plans 3 and 4, the Civil Aeronautics Board, since 1940, has been responsible for the promulgation of civil air regulations, including Part 60 of Civil Air Regulations which are the air traffic rules.

(NOTE Since the Subcommittee on Aeronautics of the Assembly Committee on Public Utilities and Corporations held its hearing in Los Angeles on May 20, 1958, by presidential order there has been established the **Federal Aviation Authority. The** Civil Aeronautics Administrator has been taken out of the Department of Commerce and the Federal Aviation Authority has attained a status similar to that of Cabinet rank. The functions of the Civil Aeronautics Board will be curtailed.)

VISUAL FLIGHT RULES AND INSTRUMENT FLIGHT RULES

In the field of flight operation there are two basic types of flight under the air traffic rules· Instrument flight rule flight and visual flight rule flight.

Visual flight rule flight is very much like driving an automobile It must be done in weather conditions which are such as to allow the prevention of collision, that is to say, to see and to be seen in the avoidance of any possible collision. Visual flight rules are based primarily upon physical observation.

Under instrument flight rules, the flight is conducted in weather where conditions are such a pilot cannot see or be seen. He is completely dependent upon a ground agency to provide him with protection from collision.

In the field of air traffic control there are two types of controls. One is the control tower, whose primary job during good weather, i.e visual-flight-rule weather, is to provide pilots flying to and from the airport with information they need to safely conduct their flight, which would include information on other aircraft in the vicinity to the extent they are known to the control tower. The control tower also gives information about wind velocity and direction, landing patterns, etc.

The other type of traffic control is air route traffic control, which is provided from air route traffic control centers which control the traffic operating along several airway systems under instrument-flight-rule conditions. While operating under instrument-flight-rule conditions, the aircraft travels in an envelope of air from the point of origin to the point of destination.

(NOTE: Most collisions and near-collision incidents occur during weather conditions permitting visual-flight-rule flight; see Exhibit G.)

QUANTITY OF AIRCRAFT

In the United States today, there are approximately 106,000 aircraft of all types. There is somewhere between 26,000 and 28,000 military aircraft. There are approximately 80,000 business and individual aircraft. There are approximately 1,800 to 1,850 commercial airliners.

Approximately 13 percent of all aircraft and pilots that operate in the United States today operate over the State of California.

NEAR-MISS INCIDENTS

California not only has the majority of aircraft operating in the United States within the boundaries of California proportionatewise, but we are cursed by over one-fifth of the reported "near-miss" incidents where aircraft were in near collision in the air. The Civil Aeronautics Board, by a special regulation, requested that all persons who had experienced a near miss, as a near collision of aircraft is popularly called, report such "near miss" on a form distributed by the board. The persons who submitted such reports were assured that the reports would not be used in any punitive or enforcement act against the airman's certificate of the person making such report. A total of 971 near misses were reported for the calendar year 1957. Of this number, 202 occurred in the State of California. The State having the next largest amount of near misses was the State of Texas with 71. In California there were 33 near-miss occasions which involved civil and civil aircraft. There were two near-miss incidents involving a civil with an unkown aircraft. There were 96 near-miss occasions involving military and civil aircraft; 61 near-miss occasions involving military and military aircraft; 10 near-miss occasions involving military and unknown aircraft. A summation of the report of the near-collision incidents for the year 1957 showed that military aircraft were involved in 729 near-miss incidents out of the 971. (See Exhibit G.) This high rate, in excess of 75 percent of all reported near-collision incidents, is no doubt the result of the tremendous speeds at which military aircraft now operate.

Ninety-eight perecent of the midair collisions which have occurred in the last 10 years in the United States and approximately a similar percentage of near-collision incidents have happened during visual-flight-rule conditions. In view of the high percentage of military aircraft involved in near-miss incidents and because of the high percentage of near-miss incidents occurring in visual-flight-rule conditions, it would seem that the "see and be seen" method of navigation of high-speed aircraft is archaic and no longer workable.

Since the last hearing of the Subcommittee on Aeronautics of the Assembly Interim Committee on Public Utilities and Corporations on May 20, 1958, by presidential order, the military and civil operation of aircraft have been brought under the control of one agency known as the Federal Aviation Agency, and it is the expectation that instrument flight rules will be imposed on all aircraft capable of operating at a high rate of speed.

EXEMPTION OF MILITARY FROM CIVIL AIR REGULATIONS

Prior to April 1, 1958, military and naval aircraft of the United States were exempted from air traffic regulations enacted by the Civil Aeronautics Board when appropriate military authority determined that compliance with air traffic regulations was not required. The only limitation was that appropriate military authority determine that noncompliance was necessary for the particular flight. Subsequent to April 1, 1958, Part 60 1 of Air Traffic Regulations, as amended, provide military aircraft are now exempted from compliance with civil air regulations when compliance with such regulations has been waived by the Civil Aeronautics Administrator or when appropriate military authority determines that noncompliance with air traffic regulations is required by military emergency or current military necessity essential to the defense of the United States.

In the crash that occurred near Las Vegas, where a commercial airliner was hit by a military jet aircraft, it is ironic that one of the passengers on the commercial airliner, who was killed in the crash, was an officer of the Civil Aeronautics Administration and had signed the waiver allowing military aircraft to depart from air traffic regulations in that particular area.

SCOPE OF PROBLEM OF AIRCRAFT SAFETY WHILE IN FLIGHT

The problem of aircraft safety while in flight as it relates to other aircraft also in flight cannot be separated from the problem of lack of airspace in which commercial and individual aviation activity can be carried on. The problems are interrelated, and with the coming of high-speed jet aircraft into use by commercial airlines the problem will become greater rather than less.

RESTRICTED AIR SPACE IN THE STATE OF CALIFORNIA

At the present time over 8,700,000 acres in the air space of the State of California has been restricted by the military for its use in one way or another.* This is in excess of the ground use that has come into the control of the military by reason by military enclaves. We have here a tremendous enclave of the air established by a civilian agency under the exercise of the commerce power granted to the Federal Government by reason of the commerce clause of the Federal Constitution. In addition to these restrictions, the Civil Aeronautics Administration has imposed an additional semirestriction of the use of

* On a subsequent inventory made after hearings were held by this subcommittee, Clyde P Barnett, Director, California Aeronautics Commission, informed this subcommittee that 11,690,240 acres are presently being reserved by the military and airways restrictions account for an additional 35,121,872 acres.

air space for the benefit of commercial aviation. (See Exhibit H, all areas covered by checked marking are restricted in some way.)

The result of these aerial enclaves has been an aggravation or an increase of traffic in the areas available to commercial and civilian air traffic. Your subcommittee recognizes that California is a coastal state, that the paramount issue of defense of the United States and this State override all other considerations under clarified declarations. However, the commercial aviation picture of California is one that predominantly runs north and south between the valleys of Sacramento and San Francisco and Los Angeles and return. This is one of the most highly traveled air routes in the world. Its only competitor would be the air route between New York and Washington, D C., at certain periods of the year. Commercial air travel from California to the east is limited to those areas that would be designated the Donner Summit or Lake Tahoe area in Northern California and the Las Vegas route of Southern California. These are the only routes that are available at the present time to commercial aircraft by reason of military enclaves of air established by the order of the Civil Aeronautics Administrator. To the west there is a defense establishment that extends along the whole coast of the State of California. The only avenues of ingress and egress are laid down in accordance with the necessity of coastal defense of the United States. The State of California has been blessed and cursed with the great concentration of military aviation, a climate that has made that concentration necessary and desirable and a location that has made that concentration militarily necessary.

At the present time, the military is requesting between 30,000 and 50,000 additional new acres of air space each month within the boundaries of the State of California. One installation contemplated at Lemoore, California, would require 100 square miles of air space be restricted against all civilian aviation for the benefit of military aviation.

The air space over the State of California is an asset that California cannot replace. No amount of appropriation would buy one square foot of air space; it cannot be hypothecated in any lending institution. With California's tremendous stake in aviation, it is incumbent upon the State that every bit of air space be utilized to the ultimate degree. The subcommittee has received testimony that such is not the case; that in truth and in fact air space reserved for the use of the military has received little use in many instances and could be and should be under proper supervision, utilized for multiple purposes where sufficient control would be exercised to assure the safety of the organizations using such restricted air space.

HOW AIR SPACE IS ALLOCATED

In 1940 the Civil Aeronautics Board adopted Section 60.13 of Part 60 of the Civil Air Regulations. Section 60.13 gave the Civil Aeronautics Administrator the authority to set aside certain pieces of air space within which hazards to aircraft navigation existed, which normal, prudent navigation and communication techniques could not avoid. Subsequent to the establishment of the Air Co-ordinating Com-

mittee, which was set up in 1946 under executive order signed by President Roosevelt, the Administrator of Civil Aeronautics chose to carry out the authority granted by Section 60.13 and the duty imposed upon him by this section through the machinery of an air co-ordinating committee. To assist the air co-ordinating committee, regional air space committees were set up at the local level. If unanimity could not be achieved at the local level, the matter was transferred to the air co-ordinating committee; under the order establishing the air co-ordinating committee, unanimity was also required at that level. Subsequent to the formation of the air co-ordinating committee, critical areas in the matter of air space developed. The State of California is one of such critical areas.

On April 1, 1958, the Civil Aeronautics Board amended Section 60.13. This amendment was for the purpose of making more specific the obligation of the administrator with respect to the designation of special air space restrictions when called upon to do so, regardless of the lack of unanimity of the air co-ordinating committee or the regional air space committees. The function of the regional air space committees and the air co-ordinating committee, after the amendment of Section 60.13 of April 1, 1958, was advisory only. These two committees still serve the useful purpose of filtering information up to the Civil Aeronautics Administrator so as to enable him to set aside restricted air spaces. Mr. Clyde P. Barnett, Director of the California Aeronautics Commission, has a place on the regional air space committee, without vote, not because he is the director of the California Aeronautics Commission, but because he is a representative of the National Air Group and as such represents the eleven Western States on the regional air space committee.

There is no provision in the Civil Aeronautics Act of 1938 or civil air regulations adopted by the Civil Aeronautics Board pursuant to the power granted by the 1938 act for participation by the State of California as a state entity in the allocation of air space over the State of California. This should be amended by the Congress.

REVOCATION OF OUTSTANDING AIR SPACE RESTRICTIONS

On April 1, 1958, Part 60.13a of Air Traffic Regulations was amended, providing for the revocation of outstanding air space restrictions. Prior to this amendment, there was no express provision contained in Civil Air Regulations for the revocation of restricted areas. The amendment contained a specific provision whereby the Civil Aeronautics Administrator might impose such terms and conditions and limitations as might be deemed necessary and might modify or revoke such designations when required in the public interest. The Civil Aeronautics Administrator is required, in performing these duties, to give full consideration to the requirements of national defense It would appear that prior to the amendment of April 1, 1958, the Civil Aeronautics Administrator had been given the power to establish military enclaves of the air with no power subsequently to restrict, diminish or revoke such enclaves.

CALIFORNIA'S STAKE IN AVIATION

California is one of the most air-minded and aviation-conscious states in the United States, which makes California as an aviation center of major importance in the entire world. Aviation is here to stay in California and in the interest of the economy of California must continue to expand and grow through development of the commercial airlines and private plane manufacturers.

IMPORTANCE OF AVIATION INDUSTRY IN CALIFORNIA

The aviation industry is one of the most important industries carried on in the State of California. It is California's largest single taxpayer and its largest employer. The aviation industry payroll in California during the week January 11 through 18, 1957, was over $23,000,000. There are approximately 248,000 people employed by the industry in California and the industry has a backlog of business, as of January 1, 1958, in excess of $4,000,000,000. Approximately 28,000,000 square feet of floor space is being used in California by the aviation industry. The economic benefit to Southern California by reason of the operation of the aviation industry is incalculable. It represents an economic benefit in which all of the people of the State of California have an interest and a benefit which must be protected.

FLIGHT TESTING

The tragic air crash at Pacoima was followed by an amendment of the Air Traffic Regulations adopted April 10, 1957. As a result of the changes made by the April 10, 1957, amendment, three categories of flight testing, including both civil and military aircraft, will have to be performed in flight testing areas approved or designated by the Civil Air Administrator. These are:

(1) *Flights of new type (experimental) aircraft.* In this category, test flights of new-type aircraft including takeoffs, landings, and en route operations must be conducted only in an approved or designated flight test area unless the administrator specifically authorizes otherwise.

(2) *Flights of production aircraft until basic airworthiness is established.* In this category, test flights of production aircraft must be conducted in an approved or designated flight test area, except during takeoffs and landings and en route operations to and from approved flight areas. Since production aircraft are models of a type aircraft previously certificated as to its airworthiness by appropriate civil or military authorities they must be flown in the test flight area only until such time as the pilot determines the basic airworthiness of the aircraft, which term is being defined in this amendment and is intended to exclude aircraft flight operations for the purpose of testing equipment or systems which do not involve a determination of aircraft worthiness.

(3) *Flights involving aircraft following major alteration, as defined in Part 18 of the Civil Air Regulations.* The rules applicable to this category are identical to those for production aircraft.

On the same date, Section 60.24 of Air Traffic Regulations was amended defining the areas air flight testing would take place unless otherwise authorized by the Civil Aeronautics Administrator:

> "*60.24 Flight Test.* The following provisions shall apply to the flight testing of aircraft unless otherwise authorized by the administrator under such conditions as he may prescribe:
>
> (a) No person shall flight test an aircraft unless such flight test is conducted:
>
> (1) Over open water or sparsely populated areas having light air traffic and approved by the administrator; or
>
> (2) Over an area designated by the administrator.
>
> (b) This section shall not apply to takeoffs and landings and operations necessary for flights to and from approved flight areas of production aircraft and aircraft which have been subject to major alterations as defined in Part 18 of the Civil Air Regulations.
>
> (c) All flight tests shall be conducted in accordance with such traffic rules as the administrators may from time to time prescribe."

The problem of the California aircraft industry as a result of these limitations has become acute. Much of the aircraft industry in California is located near the Los Angeles metropolitan area and in that area there is no land area which would comply with the requirements laid down by Section 60.24 of Air Traffic Regulations other than those areas restricted to the sole use of the military. Flight testing cannot go on in those portions of air reserved as highways for commercial aviation. (Note: On Exhibit I, the dark areas are those areas restricted to the sole use of the military. The gray areas are those areas that are themselves restricted by reason of commercial aviation, i.e., established airline routes. The only areas where no restriction attaches are those areas shown in white.)

FINDINGS OF FACT ON THE BASIS OF TESTIMONY RECEIVED BY THE SUBCOMMITTEE ON AERONAUTICS OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

1. The full authority to regulate the operation of aircraft while such aircraft is in flight, rests with the Federal Government of the United States. For any state to attempt to engage in the regulation of aircraft while in flight would result in chaos and would defeat the end sought to be achieved—the protection of persons and property of such state.

2. With the authority to regulate aircraft in flight, of necessity, goes the responsibility to enforce rules and regulations pursuant to such authority.

In the Los Angeles metropolitan areas, the exercise of authority to enforce rules and regulations promulgated by the Civil Aeronautics Board, a federal agency, has been negligibly performed. Legitimate reports of violations of air traffic regulations made to the Civil Aeronautics Administration by responsible persons have been disregarded for no apparent reason. The lack of co-operation given to the State of California and the citizens of this State by the Civil Aeronautics Ad-

ministration and the Civil Aeronautics Board is reprehensible and cannot be, in any way, excused.

3. The problem of aircraft safety in the State of California as it relates to the operation of aircraft while in flight goes hand in hand with the problem of adequate airspace to accommodate the aviation activity carried on in the air above this State. The two cannot be divorced. California has some of the most heavily traveled commercial air routes existing in the world, and these air routes are consistently being subjected to encroachment by military enclaves of the air established by federal authority without legal representation of the State of California as a political entity. It is essential to the future growth of commercial aviation in the State of California that California be assured of adequate air space commensurate with national defense.

4. California has a great stake in the aviation industry presently carried on within her boundaries. This industry is at present being hampered by the lack of adequate airspace to carry on the necessary testing of aircraft, required by specifications of contractors and by the rules and regulations of the Civil Aeronautics Board. The major center of this industry is located near the Los Angeles metropolitan area. In this area there is insufficient airspace to enable the aviation industry to test aircraft and still comply with rules and regulations established by the Civil Aeronautics Board without an express waiver from federal authority and even under such express waiver to increase the traffic already borne by the overburdened airspace remaining to civilian aviation in the southern part of the State of California

5. It is essential to the economic welfare of the State that commercial aviation be allowed to develop on safe and sane lines, that the tremendous flow of traffic between northern and southern parts of the State of California be recognized and given adequate airspace in which to carry on its activities safely.

6. It is further found that in the operation of high-speed aircraft visual flight rules are archaic, that the "see-and-be-seen" theory of avoiding collision between aircraft while in flight as it relates to high-speed aircraft is an impossibility.

7. That the State of California of all the states of the Union has the highest quantity of aircraft proportionately, the greatest amount of licensed pilots proportionately, and the greatest use of commercial aviation of any state and, as such, should be given a priority rating by any federal act that would tend to solve the problems now facing aviation, both military and civilian.

RECOMMENDATIONS

1. That the Legislature of the State of California memorialize Congress to enact suitable legislation which would provide that the testing of aircraft by the aircraft industry be carried on, under suitable rules and regulations of federal authority, in those areas in California now designated as being restricted to military use solely, when such testing could be carried on concurrently without endangering the defense of the United States.

2. That the Legislature of the State of California, by suitable legislation, provide for a joint committee to make a study of all airspace withdrawals for military use.

3. That the Legislature of the State of California memorialize Congress to provide by suitable legislation that no additional military aerial enclaves be established without prior notice to the Governor of the State of California.

EXHIBIT A

SA-323 File No. 2-0020

CIVIL AERONAUTICS BOARD

ACCIDENT INVESTIGATION REPORT

Adopted: November 22, 1957 Released: November 26, 1957

DOUGLAS AIRCRAFT, INC., DOUGLAS DC-7B, N 8210H, AND U. S. A. F., NORTHROP F-89J, 52-1870A, NEAR SUNLAND, CALIFORNIA, JANUARY 31, 1957

The Accident

At approximately 1118,[1] January 31, 1957, a Douglas owned and operated DC-7B, N 8210H, and a USAF owned and Northrop operated F-89J, 52-1870A, collided at 25,000 feet[2] over the San Gabriel Mountains about three miles northwest of Sunland, California. The DC-7 crashed on the playground of the Pacoima Junior High School, Pacoima, California, killing three students and injuring 70 others. The four crew members, sole occupants of the aircraft, were killed. The F-89 crashed in the Verdugo Mountains southeast of the collision position, killing the pilot. The radar operator of the F-89, though severely burned, parachuted to safety. Both aircraft were destroyed.

History of the Flights

The DC-7B. On January 31, at 1015, N 8210H took off from runway 3 of the Santa Monica, California, Airport. The aircraft was a new DC-7B being flown for the first time for the purpose of functionally checking the aircraft and its components in flight following production. The flight crew were Douglas Aircraft employees consisting of Pilot William G. Carr; Copilot Archie R. Twitchell; Flight Engineer Waldo B. Adams; and Radio Operator Roy Nakazawa.

The aircraft had been subject to many regular inspections during its manufacture and numerous inspections which were required after production preceding the first flight. Accordingly, it was presumed the DC-7B was in airworthy condition.

Preparations for the flight by its crew were routine. Departure was on a local VFR flight plan filed with the operations office of the company The plan showed six hours of fuel aboard and that the flight duration was estimated as 2 hours 15 minutes It also showed the gross takeoff weight of N 8210H was 88,000 pounds, well under the maximum allowable. The load was properly distributed with respect to center of gravity limitations

[1] All times herein are Pacific standard and based on the 24-hour clock.
[2] Altitudes herein are mean sea level (m s l)

According to routine procedure the flight switched to the Douglas company radio frequency after takeoff and made periodic progress reports. At 1030 the crew reported over the Catalina intersection, 9,000 feet, routine, and thereafter, at 1106, over Ontario, 25,000 feet, routine.

The F-89J. At 1050 that morning, the Northrup operated F-89J, 52-1870A, took off from runway 25 of the Palmdale, California, Airport, accompanied by another F-89J, 53-2516A. The flight of 52-1870A was one of a series of functional flight checks following the completion of IRAN (inspection and repair as necessary), an overhaul project performed under contract by Northrup Aircraft for the United States Air Force. The specific flight was in accordance with provisions of the contract and its purpose was to check the radar fire control systems of both of the all-weather interceptors. The two-member flight crew of 52-1870A consisted of Pilot Roland E. Owen and Radar Operator Curtiss A. Adams, both employees of Northrup.

Preparations for the operation were routine and departure was in accordance with a local VFR flight plan filed with the flight department of the company. The plan indicated the estimated duration of the operation as one hour with sufficient fuel aboard for approximately 1 hour and 45 minutes, considering afterburner time, altitude, and power settings for the mission.

The F-89's took off individually, using afterburners, with a separation interval of 20 seconds. In a wide starboard orbit the pilots utilized radar in a "snake climb" to 25,000 feet. At that altitude, a predetermined scissoring flight pattern was utilized which positioned the F-89's, without ground radar control, for simulated all-weather interceptor attacks on each other, during which the operation of airborne radar equipment could be checked. Radio transmissions, on company frequency, were recorded by ground facilities. These were routine commands between the pilots as they executed the radar check pattern and intercepts.

At 1118 activity in the Douglas radio room was interrupted by an emergency transmission from N 8210H. The voices were recognized by radio personnel familiar with the crew members. Pilot Carr first transmitted, "Uncontrollable." Copilot Twitchell, then said, "We're a midair collision—midair collision, 10 How (aircraft identification using phonetic How for H) we are going in—uncontrollable—uncontrollable—we are . . . we've had it boy—poor jet too—told you we should take chutes—say goodbye to everybody." Radio Operator Nakazawa's voice was recognized and he concluded the tragic message with, "We are spinning in the valley." This final transmission from the flight is presented because it contained important information relative to the accident investigation. It not only establishes the midair collision but also indicates the DC-7 was rendered uncontrollable. It further indicates that Mr. Twitchell at least recognized the aircraft with which they collided as a jet. Further, the DC-7 spun during its descent to the ground.

Weather conditions in the area at the time of the accident were reported by the Weather Bureau as clear, visibility 50 miles. Winds aloft at 25,000 were approximately 30 knots from 320 degrees

Investigation

A committee, headed by board investigators, was designated to obtain all pertinent information available from eyewitnesses to the collision. Among others, the most important objectives of the group were to obtain the place and altitude of the collision, the headings and movements of the aircraft prior to collision, the portions of the aircraft involved in the inflight impact, and the manner in which the aircraft descended to the ground. Pursuant to these objectives it was learned that more than 140 persons had seen some phase of the accident, most, however, only that portion which followed the impact. About 115 of the known witnesses were personally interviewed and 106 formal statements were obtained from the total. From the interviews and statements several representative witnesses were selected to testify concerning their observations at the board's public hearing The selections were made considering the aeronautical experience and background of the persons, the positions from which their observations were made, and how much of the accident they saw. Only a few saw the important phase prior to impact. All stated that clear weather conditions prevailed.

Of the witnesses who saw the aircraft before inflight impact a few were oriented or, by the nature of their work, were fully cognizant of directions. The preponderance of these witnesses stated that the DC-7 was on a heading of nearly due west and the F-89 was on a heading of nearly due east a few seconds before impact. They stated that the DC-7 seemed to be flying in a straight and level attitude. The F-89 was also described by most as flying straight and level; however, a few thought it was turning left. None described any movements indicating either aircraft made evasive maneuvers to avoid the collision. They, however, stated that because of the altitudes, variously estimated above 20,000 feet, it would have been difficult, if not impossible, to see any such movements. Neither aircraft was making a contrail which would have marked its flight path.

Nearly all witnesses stated a smoke cloud appeared in evidence of the inflight impact and this was followed by a sound, resembling a clap of thunder. These were the factors directing the attention of most witnesses to the accident.

Eyewitnesses said that the DC-7 continued on a westerly heading for a short interval, then rolled to its left. As this occurred a plain view was afforded and several people noted that a portion of the left wing was sheared off. They also saw a shower of metal pieces near the smoke cloud reflecting the sun. The roll continued and the DC-7 entered an increasingly steep descent. Several witnesses thought that the plane turned about its longitudinal axis during the descent and said that metal pieces continued to break off in the area of the wing fracture. Numerous persons stated there was no fire but that white-gray smoke trailed from the wing fracture. Witnesses close to the crash site noted a general breakup of the aircraft before it struck the ground.

Witnesses stated that the F-89 emerged from the smoke cloud on an easterly heading It burst into flames which enveloped the aircraft from its midsection rearward While most witnesses said the aircraft did not spin a few thought that it did Most stated that the visible portion of the F-89 seemed intact, in that the wings and tip tank-rocket

pods were in place. The fall of the F-89 was described as a consistently steep trajectory. Although the preponderance of witnesses who saw the F-89 before collision said it was headed easterly, many who saw it fall stated the trajectory was southeast. It was estimated that Mr. C. A. Adams, the radar operator, ejected from the aircraft about halfway down the descending arc of the jet.

The pilot of the F-89 that accompanied 52-1870A stated that the radar check flight had been entirely routine until the accident occurred. He stated that he and Mr. Owen had completed several simulated intercepts and that just before the accident each aircraft was being positioned for another. He stated that Mr Owen's aircraft was to attack and his was to be the target. At this time, according to the pattern, the interceptors were 15-20 miles apart with Owen's aircraft on a heading of 135 degrees and his own on a heading of 45 degrees He explained that according to the procedure Mr Owen would next issue a radio command at which time both pilots would execute standard bank 90-degree turns In the case of Mr. Owen a left turn to a heading of 45 degrees, and in his own case a right turn to a heading of 135 degrees. In this manner, at the completion of the turns, the aircraft would be positioned so that Mr. Owens could proceed 90 degrees to the flight path of the target aircraft, commonly called the "attack vector." As the flights converged the radar operator of Mr. Owen's aircraft would locate the target plane on his radar scope and direct his pilot toward the target in a manner which would enable the pilot to simulate a firing pass. The procedure required both aircraft to maintain 380 knots true airspeed. He stated that the purpose of this type interceptor was to seek out an enemy aircraft by use of radar and destroy it in a weather situation which precluded positioning by visual reference. The witness explained that no feature of the radar ever flew the aircraft or took control from the pilot, it being designed to provide information to the pilot to enable him to maneuver into firing position. He explained the "lockon" phase was not a reference to control of the aircraft but meant that the radar was being directed to one specific target to the exclusion of all others.[3] He added that during this phase, target information was presented directly to the pilot on a small radar scope in his cockpit.

The pilot testified that Mr. Owen had given the signal for each pilot to begin his 90-degree turn. This, he recalled, was, "Start making your 90, now, Jim." He said that he immediately began his turn and would assume, according to regular practice, that Mr. Owen did too. The pilot added that it was standard practice for the attacking pilot to transmit, "Steady on," indicating when the turn was complete. He said that this transmission was not received and subsequent calls to Owen were not answered. The witness said that he could not see the other F-89 at any time during this period and did not know the collision had occurred until notified by ground radio, which had intercepted the message from N 8210H. This occurred approximately one minute after the witness had finished his 90-degree turn. Then, aware of a collision, he could only suspect that 52-1870A was involved.

The radar operator who survived the collision stated that when it occurred he was checking a navigational feature of the radar equip-

[3] An electronic device coupled to the pilot radar scope of F-89, 52-1870A, for the purpose of recording lockons, showed that 52-1870A had completed three It showed no incompleted passes

ment. The nature of the check required the radar search feature to be off He said that he was not looking out but was looking at the equipment with his head lowered into a shield, "muff," which excluded most of the outside light. He testified that he did not recall hearing the command to make the turns and to his best recollection the F89 was on a heading of 135 degrees, its true airspeed was 380 knots, and its altitude was 25,000 feet when the impact occurred. This radar operator said the turn could have been started without his knowledge while he was concentrating on receiving the interrogator beacon signal in checking the navigational device. Also, because he was looking into the hood, without outside reference, a turn might not have been noticed. He estimated that he was occupied with the check about 45 seconds. He described the impact as being extremely severe but did not know whether it was a collision or an explosion. He said his cockpit was quickly enveloped in flames and his sole thought was to eject. This he accomplished quickly and with no recollection of the specific details. The witness stated there was no fault with the aircraft operation prior to the accident.

A part of the accident investigation was devoted to determining as accurately as possible the geographic location over which the collision occurred. While eyewitness' statements were being obtained, it was learned that a movie crew, on location, had accidently photographed the explosion cloud while shooting a western movie scene. To facilitate retakes, and for other purposes, a feature of the camera used permitted putting exposed film in the camera and aligning it precisely with features on the film. Thus it was possible to insert a frame of film bearing the explosion cloud in the camera, place the camera in its original position, and align the topographic details on the film with the same details on the lens image. After determining the elevation of the terrain (750 feet), the height of the camera, and other details, sightings were made using a surveyor's transit. Assuming the collision occurred at approximately 25,000 feet, it was calculated the accident occurred 5,000 feet northeast of the Hansen Dam Spillway located between Pacoima and Sunland, California Because the distance between the camera and the accident was over 30 miles the film, even when blown up to its maximum, did not show either aircraft or any detail of the collision.

During this phase of the investigation it was also learned that a surveyor, at work, had seen the collision. The witness stated that the next day he repositioned his transit and made bearings on the position of the explosion cloud position as he recalled it. Again assuming the collision was at 25,000 feet, results showed the accident took place over a position about 12,500 feet northeast of the Hansen Dam Spillway.

From the results of both of these investigatory actions, together with considerable eyewitness testimony, it was determined that the accident occurred over an area northeast of the Hansen Dam Spillway, which is sparsely populated.

Following the midair collision, the DC-7 continued on a westerly heading for approximately four miles where it crashed on the grounds of the Pacoima Junior High School and an adjoining church.

Wreckage distribution and the manner in which various components struck the ground made it clearly evident that the DC-7 sustained structural failure of its basic airframe during descent. A considerable number of major pieces from the tail surfaces and aft fuselage were

recovered along a two-mile path ending just east of the principal wreckage area. For the most part pieces of the aft fuselage were closer to the principal area, showing this portion of the aircraft failed after the tail section. Portions of fuselage forward of the wing and just aft of the wing were located on the church property, indicating disintegration in this area prior to the initial ground impact.

The major portion of the DC-7 fell on the school property and on impact it broke up into numerous pieces, many of which were additionally damaged or destroyed by intense ground fires. Distinct craters were made by each of the four powerplants and the main wing center fuselage unit. The wide separation between the craters compared to the normal distance between the components as installed on the aircraft showed these units had also separated from their supporting structure before ground impact. Characteristics of the craters, and the way debris was thrown out of them, showed clearly the units which made them were moving westerly.

Following the inflight impact the F-89 fell southeastward for nearly 2½ miles where it crashed on a narrow ridge in the rugged terrain of the Vurdugo Mountains. Evidence showed the aircraft struck the ground relatively flat with a high sink velocity but little forward motion. The impact and an accompanying explosion caused extensive disintegration of the aircraft. An intense ground fire also completely or partially consumed many of the wreckage pieces.

During the structural investigation every effort was expended to determine, independent of eyewitness information, if there had been an inflight collision between the aircraft and, if so, the manner in which it occurred. After the many scattered wreckage pieces were found, identified, and their locations documented, they were transported to one location. There, the problems were approached by mockup, reconstruction, layout, and isolation of pieces bearing collision evidence. This work disclosed and isolated areas of damage which, by their nature, conclusively prove that a midair collision did occur. Results of this work also provided the material for determining the physical relationship of the aircraft to each other at the instant of impact.

One of the most significant areas involved in the inflight contact was the left wing of the DC-7, between stations 530 and 613. This area had been severely fragmented by impact forces with the largest single piece found about 18 by 12 inches in size. This piece and many others from the wing area were severely torn, crushed, and curled. They also bore scratches and smudges associated with the collision contact. Some of these pieces were recovered from ground positions below the previously described collision area considering the drift effect from winds aloft.

Outboard of station 613 to the wing tip, a span of about 8½ feet, the wing panel was recovered in one piece. This component was recovered in the Sunland area and was in a relatively undamaged condition. At the fractured inboard end of this piece the stringers and spar sections were crushed and deformed rearward. On the bottom surface skin in the fracture area, scratches running aft and inboard were noted. Others were evident adjacent to the fracture with a few light smudges and scratches on the upper leading edge skin. Corresponding scratches were noted near the inboard end of a portion of aileron normally positioned on the wing in this area.

The average angle of the fracture, measured at the inboard end of this severed wing panel, was three degrees from a perpendicular to the centerline of the center wing spar. The aft end of the separation plane was farther inboard than its leading edge.

At station 530 the leading edge wing skin was deformed rearward. There, additional scratches and black-gray smudges were noted. Between station 530 and the wing root there was no evidence of collision except minor deformation and a few grayish smudges at station 397 on the upper leading edge wing surface. Spectographic and microchemical tests identified these gray smears as paint, identical with samples taken from the F-89 horizontal stabilizer.

With respect to the F-89, it was learned it had fallen to the ground intact except for components which separated because of the inflight collision damage. This damage was obviously so extensive that continued control was impossible. Further, characteristics of fire damage showed the aircraft was afire during its descent to the ground.

Of equal importance to the structural objectives was the F-89 fuselage nose section rearward to about station 125. This area had sustained severe inflight strike damage causing much of it to separate in flight as two large pieces and many fragments. One large section consisted of the upper panel structure above the nose section side doors from station 12 688 rearward to station 105 Below this panel structure an area the length of the panel and about 15 inches wide was gouged out This area measured four degrees to the longitudinal axis of the aircraft with the aft end higher than the forward end. A portion of the front nose circular ring was still in place at station 12 on the large nose piece. The ring was fractured 22½ inches from the top centerline on the right side and 10 inches from the top centerline on the left side. Measurements were made over the peripheral distance.

The second large piece from the nose section was from the area below the nose section side door between stations 12.688 and 105, or roughly the structure below the bottom edge of the gouged-out area. Similar to the upper nose section piece, this component bore inflight impact evidence, had been torn off in flight, and was recovered away from the main wreckage area of the F-89. The bottom portion of the fractured circular nose section ring at station 12 was attached to this large lower panel section. A line joining the edges of the fractures of this ring on the lower section made an angle of about 29 degrees with a waterline plane, the right side being lower than the left.

From the damage described and mockup reconstruction it was clearly evident that an object, about 15 inches deep, had passed through the F-89 nose compartment from front to rear at an approximate angle of 29 degrees. The object passed through the fibreglass radome, the nose frame at station 12, and through all intermediate frames and bulkheads, rearward to and including station 105.

The F-89 radome was recovered in two large pieces. The separation line on these two pieces corresponded approximately to the fractures in the circular nose section ring. The larger radome piece bore scratches in its black exterior paint and it was evident that they were made by a rivet line on the object which penetrated the entire nose section.

During the structural investigation considerable other inflight impact and collision sequence evidence was found. Most, however, was cumu-

lative in the principal areas already described or it was so inconsistent with the clearly established pattern that the damage was considered secondary.

It was also possible during the layouts, the reconstruction, and isolation work to examine the individual pieces of wreckage which were not involved in the inflight impact but which separated from the DC-7 before the ground impact. The characteristics of the various fractures clearly showed that the general breakup of the DC-7 before ground impact was the result of airloads beyond the design or required strength of the airframe. Such loads were undoubtedly imposed during unusual altitudes of the airplane in its fall. This general disintegration, according to wreckage distribution, occurred shortly before ground impact and started with the empennage of the aircraft.

An equally exhaustive effort was expended in examining the engines of both aircraft and, in the case of the DC-7, its engines and propellers. The objective was to determine whether or not any inflight failure or operating difficulties of these components contributed in any way to the cause of the midair collision.

As indicated, the four DC-7 powerplants separated from the aircraft before ground impact as a result of excessive airloads. The units were severely damaged by this impact and were principally recovered from the widely separated craters in the schoolyard. In each case the propeller assemblies, nose, supercharger, and rear accessory cases were broken from their respective power sections. All cylinders were broken loose from their power section. Numerous components from these assemblies were scattered forward of the craters for distances as great as 250 feet. There was no evidence on the engines of inflight contacts.

Following a preliminary examination at the wreckage site, the powerplants were removed to suitable facilities for disassembly and detailed examination. This showed the various gear trains, bearings, and shafting of the engines had been normally lubricated prior to impact and that there was no evidence of failure or operational distress. Boroscopic examination of the cylinders revealed no indication of combustion irregularities. The articulating assemblies of the engine showed no evidence of operating distress and the oil pumps and screens were free of foreign material. While all of the engine accessories were recovered, ground impact damage precluded them from being functionally checked.

The DC-7 propellers remained tight on their shafts; however, each assembly, as indicated, was broken from its engine. The propeller blades exhibited various degrees of camber and faceside bending. Careful examination of the propeller blades, especially of the Nos. 1 and 2 engines, showed clearly they were not involved in the inflight collision.

Examination of the propeller pitch-changing mechanisms disclosed the stop rings properly indexed for a blade range of 94½ degrees positive, full feathering, and minus 14 degrees, reverse. Impact markings on the spider shims and shim plates revealed a propeller blade angle at ground impact averaging 58.5 degrees. Because of the inflight disintegration of the aircraft and separation of the powerplants, as well as possible throttle manipulation during the descent, little significance can be attached to this evidence with respect to power or airspeed at the instant of collision.

The turbo-jet engines of the F-89 were recovered in the main wreckage of the aircraft Both were heavily damaged by ground impact and fire after impact. Some portions of the engines were hurled 4,000-5,000 feet from the crash site The inlet and accessory sections of both engines were broken off and consumed by fire. The first three stages of the left engine compressor and the first stage of the right engine compressor were broken away Variable bending and lack of damage to some blades in the same stages were indications that the damage was the result of impact with the ground. The combustion cans, although deformed, showed no indication of overheat. Crossover tubes were normal. Both turbine assemblies were intact but displaced rearward. The aft sides of the turbine wheels were freshly scored, indicating rotation when the wheels were forced rearward

From the investigation of the powerplants of the DC-7 and the engines of the F-89 there was no evidence found to indicate that a malfunction or failure of any of these units was a factor in the accident.

Because of some misunderstanding during the accident investigation, the Board believes it is in the public interest to explain the status of the DC-7, the nature of its first flight, and the requirements and restrictions associated with the operation. These subjects were fully explored during the public inquiry through witnesses representing the Douglas Company and the Civil Aeronautics Administration (CAA).

From inception of an air-carrier-type aircraft to commercial production of the model many months, or years, of design, evaluation, and tests are required During this period after the model is produced it is an experimental aircraft and may be flown only under an experimental certificate isued in accordance with Civil Air Regulations by the CAA. This strictly limits operation of the aircraft in the interest of safety. During this period the model must exhibit, through every manner and type of test, its strength, safety, performance, and quality, and meet or exceed the standards required by appropriate Civil Air Regulations. On completion of this work, if the airworthiness is proved the model is awarded a type certificate and may be duplicated in exact kind and quality for commercial sale. N 8210H was such a duplicate, one of over 300 already manufactured and in use in commercial aviation.

The manufacture of such aircraft under type certification is closely supervised by CAA personnel This is a form of quality control and accomplished by inspection and tests performed regularly and frequently throughout manufacture. When production is complete numerous additional checks are accomplished by the manufacturer, and in the case of N 8210H nearly 15 hours ground time were accumulated on the powerplants during this work

Before a formal airworthiness certificate is issued for the individual aircraft, Civil Air Regulations require that a functional inflight check be accomplished This is principally a flight to gather information from which, if necessary, final and minor adjustments on the aircraft and its components can be made. Accordingly, N 8210H was being flown for this purpose when the subject accident occurred

The functional check flight is made under a special flight authorization certificate issued by the CAA and it also is restrictive Among other limitations, the aircraft must be flown in visual flight rule weather

conditions, without passengers and, except for landing and takeoff, the operation must be over sparsely populated areas

The F-89 was produced in a similar manner; however, the standards and specifications of a military plane are governed by the military establishment and not by Civil Air Regulations.

The IRAN project, in the case of the F-89, was principally a complete overhaul of the aircraft. This in no manner changed the basic proven airworthiness of the aircraft; however, such projects may modernize some of its components, especially those relating to its weapons systems.

Northrop records showed that after the overhaul work was completed with respect to 52-1870A, the aircraft had been flown six times for various checks of the work performed. The subject flight was to be a final check by the Northrop Company before turning the aircraft back to the U. S. A. F. It was for the purpose of checking the radar portion of the weapons systems of the aircraft and thus was a functional check flight.

In accordance with Air Force regulations pertaining to the Air Force flying activity at Palmdale, which were mutually agreed upon and part of the Northrop operating procedures, the F-89 flights were not to be made over congested areas except during landings and takeoffs. Also, the flights were to be conducted within an area generally bounded by San Diego, northwest to Santa Barbara, northeast to Bakersfield, and southeast to El Centro. As a standard Air Force requirement this area was designated and published as a local flying area; however, such did not set it apart for the exclusive use of the company. As a matter of fact, the same area is used in the flying operations of the numerous aircraft manufacturers located in the Los Angeles vicinity. Witnesses stated the joint use of this airspace was common knowledge. They also said it was heavily used by the aircraft of the manufacturers, the military, and commercial traffic serving the large metropolitan area. Further, the space was limited by restricted areas bordering the aforementioned local flying airspace on the east and west sides The accident occurred within this local flying area

It will be recalled that both flights were operated under local VFR flight plans. Accordingly, the avoidance of other aircraft was a direct responsibility of the pilots of both aircraft. Civil Air Regulations, Part 60, Section 60 12 (c), clearly place this responsibility on all pilots, regardless of the type aircraft. Rules for avoidance and right-of-way are also spelled out in these regulations, Section 60.14 (a) through (c) and Section 60.15

Because of this pilot responsibility it was considered important to determine what, if any, effect the operational nature of the flights had on the ability of the pilots to carry it out. Specifically, it was important to learn whether or not the operational nature of the flights required an unusual amount of pilot cockpit preoccupation Witnesses, well qualified through actual experience in performance of the flights, were questioned with respect to this subject.

A Douglas representative described the production flight check from its beginning to end, stating that each was very similar and followed a definite pattern. He stated the purpose was a thorough operational check of the aircraft, its powerplants, and its equipment involving

flight at various power settings, aircraft configurations, all at various altitudes. The witness testified that flight check sheets are carried aboard the flights and the items are accomplished in the sequence of their arrangement on the sheets. He also said that as the flight progressed and the items were accomplished the results were recorded. This duty, he said, was exclusively a responsibility of the flight engineer. He also said the manipulation and setting of controls, except flight controls, was principally done by the flight engineer. He concluded that there was no greater pilot cockpit preoccupation in this type of operation than in any other.

During the investigation these flight check sheets were recovered from the wreckage of N 8210H. It was noted that many of the items had been completed and in sequence. The end of the completed items indicated that when the collision occurred the aircraft was being flown at 25,000 feet and at about 330 knots true airspeed, for the purpose of checking carburetor operation at maximum cruise power. A study of the writing showed clearly it was in the handwriting of Mr W. B. Adams, the flight engineer.

Witnesses experienced in the F-89 radar check flight operation stated it required precision flying and that accuracy of headings and altitudes was required within narrow tolerances. Because of this the simulated intercepts were usually flown using autopilot Witnesses familiar with Mr. Owen's technique believed he would have been using it continuously during the radar pattern and simulated intercepts which would include the turn preceding the attack vector. The radar operator could not tell from his cockpit The witnesses testified that using the autopilot provided the precision necessary and greatly reduced the pilot's concentration within the cockpit Testimony indicated that during the turn preceding the attack vector the pilot had only to monitor the turn During this time there was nothing connected with the radar equipment to occupy his attention. Greatest cockpit concentration on the pilot's part would be later during the lockon phase of the intercept which follows completion of the turn to the attack vector and after the search phase has been accomplished. Witnesses concluded that during the positioning turn Mr. Owen would be free to look out for other aircraft. As previously stated, the responsibility to look out for other aircraft was in no manner reduced by the designation of a local flying area.

Analysis

The several areas of primary collision damage and markings furnished the foundation for a successful analytical study of how the inflight collision sequence occurred and the relative attitudes of the aircraft at impact.

Initial contact occurred when the leading edge of the left wing of the DC-7 between stations 530 and 613 made contact with the fiberglass radome of the F-89. As the two aircraft passed, the left wing of the DC-7 and nose section of the F-89 progressively penetrated one another until the left wing outboard of station 530 was sheared off and the nose section rearward to station 125 was destroyed. Impact markings made during this sequence showed clearly that the aircraft were rolled 36 degrees to the left with respect to each other.

As the split second sequence continued the left horizontal stabilizer of the F-89 brushed across the upper surface of the DC-7 left wing at station 397 leaving paint smudges in that area. The relative angle in the roll plane between the aircraft and location of the stabilizer brush marks showed the F-89 would clear the No 1 propeller arc of the DC-7, thus accounting for the absence of propeller cuts and blade damage. The aircraft then passed one another and from all the available evidence there were no other primary contacts between them. Damage received by the F-89 clearly showed it would have been rendered uncontrollable In the case of the DC-7 it is doubtful that effective control would have existed, the latter substantiated by the final transmission from its crew, "Uncontrollable"

The relative angle between the aircraft in the pitch plane must be deduced from the impact markings and the existing angles of attack of the aircraft when the marks were made Impact damage was all predominantly rearward and slightly inboard on the DC-7 with little or no upward or downward indications On the F-89 the damage was rearward with a four-degree upward angle. With respect to airspeeds, a principal consideration in determining angles of attack, ample evidence indicates that the true airspeeed of the F-89 was 380 knots and, though less conclusive, it is quite probable that the true airspeed of the DC-7 was 330 knots Considering this evidence, it is very reasonable to conclude that both aircraft, relatively, were level in the pitch plane

The impact angle in the yaw plane is perhaps the most important factor of the collision orientation because it is most indicative of the converging flight paths before impact. This angle is based on consideration of airspeeds and the fracture angle of the cut on the left wing of the DC-7, which was measured as three degrees inboard from front to rear. Accepting the airspeeds mentioned and the angle of the cut, the resultant angle of convergence was about five degrees from head-on

As previously indicated, the correlation of physical damage, collision marks, and impact angles relate one aircraft to the other but not with respect to the ground. It is therefore necessary to deduce the orientation with respect to the ground through other means While direction of flight at impact may often be indicated by the direction of wreckage scatter, in the subject accident this was not definitive. Thus, orientation of the aircraft with respect to the ground and the direction of flight of the aircraft at impact are necessarily based on the observations of eyewitnesses and some circumstantial evidence

The preponderance of eyewitnesses, some aeronautically qualified and cognizant of direction, believed that the DC-7 was heading about due west and the F-89 was heading approximately due east when they collided. While it is possible that some error may exist in these collision heading because of the difficulty of such estimates from ground positions, it is noteworthy that only substantial errors would have an appreciable effect on the result based on them Recalling it was Pilot Owen's intention to turn left from 135 degrees to 45 degrees using a 30-degree bank, and accepting the collision headings as substantially correct, it is entirely reasonable to conclude that the F-89 was banked to its left about 30 degees with respect to the ground when the impact

occurred This conclusion would thus place the DC-7 flying straight and level, or nearly so, when the two aircraft collided.

In summary, based on all the available evidence, it is the judgment of the Board that this collision occurred nearly head-on while the DC-7 was flying straight and level, or nearly so, on an approximate westerly heading. It is believed that it occurred while Pilot Owen was executing a level left turn from 135 degrees toward an anticipated heading of 45 degrees and that his aircraft was banked approximately 30 degrees. It is also clearly evident that the accident took place in clear weather conditions at 25,000 feet over a noncongested area between one and two miles northeast of the Hansen Dam Spillway.

The small difference between the standard bank of 30 degrees and the 36-degree impact angle in the roll axis cannot be positively explained. It is possible, however, that this six-degree difference is indicative of the start of an evasive maneuver. From the transmission by Mr. Twitchell, "Poor jet too," it is known that he saw the F-189. Because the collision sequence occurred in about 1/100 of a second he could not have recognized the aircraft as a jet at that time and must have done so before impact It is possible, therefore, he saw the jet in time to react and start a left bank which had progressed six degrees but which was insufficient to avoid the collision.

In order to evaluate the all-important question of whether or not the crews could have seen and avoided the collision, an analytical study of the opportunities was made. The aforementioned collision factors were applied, with others, such as closure speed, visual range, and angular position of the conflicting aircraft on the other's windshield. It must be realized that some of these latter factors are the products of numerous tangible and intangible considerations.

The maximum distance that an aircraft can be seen depends upon its angular presentation, its color contrast with the existing background as affected by the degree of illumination, and the atmospheric conditions of visibility including altitude effect. These factors are highly variable and different in each actual situation, and small amounts less than optimum in the conditions result in an appreciable reduction of the maximum distance that an aircraft can be seen. Also, it is known that the head-on or near head-on flight paths are the most unfavorable situations for sighting other aircraft because of the relatively small frontal profile presented during such closure.

Realizing the intangible nature of the maximum sighting distance, the Board carefully considered each factor, together with published material on the subject, and selected 3 5 miles as its best estimate in the subject situation.

Accepting this distance and applying it to the flight path portion of the analytical study, the F-89 would enter visual range about five degrees to the right of zero reference on the DC-7 windshield. Movement during closure would be slowly from right to left until just before impact. At visual range the DC-7 would be positioned 22 degrees to the left of zero reference on the F-89 windshield. Considering the banked attitude of the F-89, this initial position would be on the canopy glass off the armorglass windshield. Movement of the DC-7 during closure would be slowly diagonally downward from left to right until just before impact.

Considering the probable flight path of each aircraft to collision, the visual range, and the true airspeeds of the aircraft, computations show the closure speed between them was about 700 knots. The calculated time from visual range to collision was about 15 seconds.

While a conflicting aircraft is within visual range it must first be detected by the pilot, then an avoidance decision must be made and, finally, the aircraft must respond to and carry out the avoidance maneuver. Each of these factors requires an element of time, the total of which must be sufficient for a successful collision avoidance.

Detection of another aircraft is probably the greatest time-consuming factor, being restricted by physiological limitations of the human eye. The eye will best detect an object when it is within the focal field of vision, some 2-3 degrees wide. With sufficient motion the object may be detected within the peripheral field, a few degrees outside the focal area. To compensate for these restrictions the pilot must employ scanning to search the broad areas of potential collision to detect other aircraft. Thus a reasonable opportunity to avoid collision must include a reasonable time for detection.

Following detection, the pilot must then evaluate the situation and determine if collision courses exist and, if so, decide on the proper evasive maneuver. The time required for such decision may vary considerably, according to the situation. For example, it may be hard to determine whether or not a conflicting aircraft is approaching or moving away. It may also be difficult to decide which way a turning aircraft is progressing and where its projected flight path will take it from its sighted position. This is especially difficult when the conflicting aircraft and the aircraft from which it is viewed are being flown at high speed.

Aircraft response, especially for the large transport type, is less than immediate. Although with boosted controls the attitude of the aircraft may be altered rapidly, several seconds are required before the direction of flight is sufficiently changed to avoid collision.

Considering these collision avoidance elements and all the available evidence, it appears that only the minimum time opportunity existed for the pilots to have carried out the basic elements of collision avoidance. It is clear that only if the pilots sighted the other's conflicting aircraft early in the period when it was visible and took immediate evasive action could the collision have been avoided. Thus, it is the considered opinon of the Board that, while visual separation could have been effected in the time available, because of the near head-on closure and the high rate of closure at high altitude the pilots were confronted with unusually great problems of visual separation.

The accident, which appears to have occurred under almost the most adverse conditions insofar as the time opportunity for the pilots to see and avoid is concerned, raises the question whether the long established "see and be seen" philosophy applicable to VFR flight is adequate in uncontrolled operations. It is clear that, under certain conditions of speed and angle of convergence, very little time opportunity exists for pilots to observe the other aircraft and take avoidance action. As aircraft speeds and traffic density increase, this problem will be aggravated. While this problem is serious, and growing more so, it is not sufficient cause to discard the see and be seen rule. Alternatives to this

fundamental rule in VFR operations either do not exist as yet or are so extreme that they would penalize the expeditious flow of traffic to the point where aircraft operations in general would be stifled For instance, the practical consequences of immediate implementation of full positive control for such operations regardless of weather would be the grounding of a large percentage of current aircraft operations. Therefore, until technological advances are made which will insure separation of aircraft without reliance on the vigilance of the pilot, the board will continue to rely on the see and be seen policy with whatever refinements circumstances and the state of the art permit. In this connection, the board calls attention to certain regulatory amendments already adopted and others in preparation which serve to refine the see and be seen rule in the light of high-speed, high-performance aircraft operations In this group are the pilot vigilance and restrictions on flight testing rules; the VFR minimums within control zones for flights with traffic clearance, and speed control and communication rules in high density air traffic zones; the high altitude quadrantal rules; and the rules establishing the continental control area.

In view of the foregoing, the board must call to the attention of all persons engaged in the operation of high-speed aircraft that the closure rates of such aircraft in normal operations impose obligations for vigilance on the part of operating crews which are of extreme urgency We are faced with no immediate alternative but to seek the redoubling of effort on the part of management and operating crews to prevent any avoidable diversion or preoccupation which would tend to compromise the ability of pilots to see and avoid other aircraft It has not been possible in this instance to determine specifically what had prevented the crews of either aircraft from taking timely action; however, we conclude that the avoidance of collision by visual means was not beyond the physical capabilities of the pilots involved provided full attention was given to collision avoidance Accordingly, reliance must continue to be placed upon pilots of aircraft engaged in similar operations to provide for separation under visual flight rules. To this end, however, the board will continue to review inflight procedures, cockpit design including instrument and equipment layout, aircraft crew complements, and the training and indoctrination of flight crews to insure that the possibility of recurrence of such a collision is minimized.

Findings

On the basis of all available evidence the board finds that:

1. The aircraft and the crews were properly certificated according to the status of the aircraft and nature of the operations.
2. Preparations for the flights were complete and routine.
3. The flights were operated in clear weather conditions and in accordance with the provisions of local VFR flight plans.
4. Under VFR weather conditions and VFR flight plans collision avoidance rested in visual separation, a pilot responsibility.
5. The DC-7 and F-89 collided in flight on approximately west and east headings, respectively. They were at 25,000 feet over a noncongested area between one and two miles northeast of the Hansen Dam Spillway.

6 At impact the F-89 was rolled about 30 degrees left, both aircraft were about level in the pitch plane, and the convergence angle was about five degrees from head-on.

7. Both aircraft fell out of control and the DC-7 crashed in a populated area.

8 From visual range, estimated at 3 5 miles, the closure speed between the two aircraft was 700 knots and over the probable flight paths the time to collision from visual range was about 15 seconds.

9. The nature and purpose of the flights did not prevent all pilots from maintaining a lookout for other aircraft.

10. There was no evidence found to indicate that any malfunction or failure of the aircraft or their components was a factor in the accident.

Probable Cause

The board determines that the probable cause of this midair collision was the high rate of near head-on closure at high altitude which, together with physiological limitations, resulted in a minimum avoidance opportunity during which the pilots did not see the other's aircraft.

By THE CIVIL AERONAUTICS BOARD:

/s/ JAMES R. DURFEE
/s/ CHAN GURNEY
/s/ HARMAR D. DENNY
/s/ G. JOSEPH MINETTI
/s/ LOUIS J. HECTOR

EXHIBIT B

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, April 22, 1957

HONORABLE WILLIAM F. MARSH
Assembly Chamber

AIRCRAFT—NO. 11570

DEAR MR. MARSH:

QUESTIONS

(1) Does Senate Bill No. 646, as introduced, remove all state control over aircraft flight patterns?

(2) If so, and the bill is enacted, could an interim committee properly inquire into the question of what control the State could exercise over aircraft flight patterns?

OPINION

(1) The bill removes all state control over the power to regulate and control the operation of aircraft and use of the airways, exercised under the State Aeronautics Commission Act.

(2) A legislative committee could inquire into this question, assuming the matter was within the scope of the committee's resolution.

ANALYSIS

(1) Senate Bill No. 646, as introduced, would add Section 21240 to the Public Utilities Code, as part of the State Aeronautics Commission Act (commencing at Section 21001, P. U. C.), to read:

"21240. This State recognizes the authority of the Federal Government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the commission the power to so regulate and control operation of aircraft or to control use of airways."

By its terms, this provision would state that the State Aeronautics Commission Act does not give the California Aeronautics Commission power to regulate operation of aircraft or to control the use of airways. This prohibition would include aircraft flight patterns. Since that act is the basic state act with respect to the regulation of aircraft in this State and the California Aeronautics Commission is the state agency vested with administration of that act, the bill, in effect, would remove whatever control over aircraft flight patterns the State now exercises, if any

(2) Section 37 of Article IV of the State Constitution empowers the Legislature to "provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control."

The fact that state control over a particular matter is removed at one session of the Legislature obviously does not prevent the Legislature at a future session from exercising that control, to the extent it can constitutionally do so. Thus, Senate Bill No. 646 would not place the matter beyond future legislative regulation or control.

There is a constitutional question of what control the State may exercise in the field of operation of aircraft in view of the extensive federal laws and regulations on the subject. Certainly, a legislative committee could be created to investigate the extent of the State's power to regulate such matters, notwithstanding the effect of Senate Bill No. 646, if enacted.

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
/s/ OWEN K. KUNS, Deputy

EXHIBIT C

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, November 4, 1957

HONORABLE WILLIAM F. MARSH
North Hollywood, California

AVIATION—NO. 530

DEAR MR. MARSH:

The enclosed opinion was prepared pursuant to your request. Also pursuant to your request, we are sending a copy of the opinion to Mr. Robert S. Thurn, Committee Consultant for the Assembly Interim Committee on Public Utilities and Corporations.

You have also asked our opinion as to the scope of the jurisdiction of the Subcommittee on Aeronautics of the Assembly Interim Committee on Public Utilities and Corporations. The Legislature is authorized to provide, by resolution, for the appointment of interim committees to ascertain facts and make recommendations as to any subject within the

scope of legislative regulation or control (Cal. Const., Art. IV, Sec. 37). The Assembly Interim Committee on Public Utilities and Corporations is authorized by House Resolution No. 131 of the 1957 Session, to study "all facts relating to the operation of aircraft over populated areas, aircraft flight patterns, test flight patterns, air ground control, and any hazards to life or property incident thereto, and the means of eliminating or reducing such hazards. * * *" Assuming that the subcommittee has been directed by the chairman of the full committee to study these subjects, the subcommittee would have all of the powers of the full committee with respect thereto (Rule 36, Joint Rules of the Senate and Assembly).

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
/s/ By ALEX B. YAKUTIS, Deputy

EXHIBIT C

State of California
Office of Legislative Counsel
SACRAMENTO, CALIFORNIA, November 4, 1957

HONORABLE WILLIAM F MARSH
North Hollywood, California

AVIATION—NO. 530

DEAR MR MARSH:

QUESTION

You have asked, relating to the general subject of aviation safety but with particular emphasis on the subject of air traffic regulation, whether the State retains any power over this subject or whether the field has been completely occupied by the United States.

OPINION

There is a residuum of power in the State over aviation safety to the extent that the State's regulations do not conflict or interfere with the nationally uniform federal system of air traffic regulation. However, the exact extent of the State's power has not been outlined as yet by the Supreme Court of the United States.

ANALYSIS

The United States Government is one of enumerated powers, one of which is the power of Congress "to regulate commerce with foreign nations, and among the several states. * * *" Art. I, Sec. 8, Cl 3, U. S Const).

Pursuant chiefly to the commerce power, the Congress has enacted the Civil Aeronautics Act of 1938 (49 U. S. C., 401-722), creating the Civil Aeronautics Board and the office of Administrator of Civil Aeronautics Broad duties are placed on the board "to promote safety of flight in air commerce * * *" (49 U. S C 551), and the administrator is, among other things, directed to establish "such civil airways as may be required in the public interest" (49 U. S. C., 452).

For purposes of the act, "air commerce" is a concept of wide scope, being defined as "* * * interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any civil airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce." (49 U. S. C 401 (3).) Accordingly, it can be seen that regulations of the board relating to aviation safety in "air commerce" may extend to aircraft operations which are wholly intrastate While the Supreme Court of California, in 1935, indicated its view that the State and not the Federal Government was vested with exclusive power to prescribe air traffic rules to govern the operation of aircraft flying in purely intrastate flights (*Parker* v *Granger*, 4 Cal. 2d 668, 677). In 1951 the Supreme Court of California denied a petition for rehearing of a case which had given recognition to the applicability of the Federal Civil Air Regulations to an intrastate aircraft flight. (*Hall* v. *Osell*, 102 Cal. App. 2d 849). Thus the ruling in *Parker* v. *Grange*, supra, while not expressly overruled, has been clouded by *Hall* v. *Osell*, supra.

Contrasted to the United States Government, the government of the State of California is one of general powers, which powers may be exercised by the Legislature except where specifically restrained therein by the State Constitution (*In re Madera Irrigation District*, 92 Cal. 296), and subject to the supremacy of the Federal Constitution (Art. I, Sec. 3, Calif. Const.; Art VI, Cl. 2, U S Const.). As a general proposition, therefore, the State may act to advance local welfare and safety interests in the field of aviation safety regulation, limited to the extent that the commerce power delegated to the Federal Government shall not be offended It is not possible to mark out beforehand and in the absence of a particular factual setting the exact place where the line is drawn between the operation of the local police power over aviation safety and the national interest in a free-flowing commerce; the problem is one of "practical adjustment" (*Simpson* v. *Shepard*, 230 U S 352, 431)

However, one of the most recent federal cases on the subject of the air traffic regulation aspect of aviation safety indicates that the Federal Government has "preempted the field" by its systematic regulation in that regard, at least to the extent of invalidating "police power" legislation which is inconsistent or conflicting with the scheme of national uniformity. In *Allegheny Airlines* v *Village of Cedarhurst* (132 F. Supp. 871; affirmed, 238 Fed 2d 812), an ordinance which interferred with air traffic in the vicinity of the New York International Airport (Idlewild) by prohibiting flights below 1,000 feet over a nearby village was held unconstitutional, with the court stating its belief that legislative action by the Congress, together with the regulations adopted pursuant thereto, have regulated air traffic in the navigable airspace in the interest of safety to such an extent as to constitute preemption in that field

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By ALEX B. YAKUTIS, Deputy

EXHIBIT D

U. S. DEPARTMENT OF COMMERCE
CIVIL AERONAUTICS ADMINISTRATION
Washington 25

HONORABLE WILLIAM F MARSH, *Chairman*
Subcommittee on Aeronautics
Legislative Department
State of California
Sacramento, California

DEAR MR. MARSH: This will confirm our telephone conversation regarding the subpoena served upon Mr. W. P. Plett, Regional Administrator of the Civil Aeronautics Administration, requiring his attendance at a hearing of the Subcommittee on Aeronautics of the Assembly Interim Committee on Public Utilities and Corporations of the California Legislature.

It is my understanding that the needs of your committee will be satisfied by the appearance on May 20th of Mr. C. W. Carmody, Assistant Director of our Office of Air Traffic Control, in place of Mr. Plett, that the subpoena served upon Mr. Plett will be withdrawn, and that he need not appear. Although we do not agree that federal employees such as Mr. Plett are subject to such a subpoena, we do wish to furnish to your committee any information we can which will assist in the performance of its functions, and accordingly will be glad to make Mr. Carmody available.

As I indicated to you in our conversation, Mr. Carmody will have to leave for Fort Worth on the evening of May 20th in order to fulfill commitments with respect to litigation pending in that city, and I understand that you will be able to complete your investigation of the matters within his knowledge on that day.

Copies of this letter are being furnished to Senators Knowland and Kuchel who have expressed an interest in this matter.

Sincerely yours,

/s/ JAMES M. DICKERMAN, Acting General Counsel

EXHIBIT E

CIVIL AERONAUTICS BOARD
WASHINGTON 25, May 15, 1958

HON. WILLIAM F. MARSH
Chairman, Subcommittee on Aeronautics
California Legislature, State Capitol
Sacramento 14, California

DEAR MR. MARSH: Copies of your letters requesting that the Civil Aeronautics Board appear at a hearing in Los Angeles, May 20, of the Subcommittee on Aeronautics of the Assembly Interim Committee on Public Utilities and Corporations in the California Legislature have been referred to the board by Senators Knowland and Kuchel.

Further, to confirm telephone conversations between you and Mr. Oscar Bakke, the board's Director of Bureau of Safety, you may be assured that the board will be pleased to co-operate with the California

authorities in providing information on matters which come under the board's jurisdiction.

It is the board's understanding that you have assured Mr. Bakke that the subpena served on Mr. Goldstein will be withdrawn and that Mr. Goldstein need not appear. As Mr. Bakke indicated to you, Mr. Goldstein's principal responsibility is in connection with accident investigation rather than in the field of airspace control.

The board appreciates your courtesy in agreeing to withdraw your subpena. In this connection you will understand that the board cannot accede to any view that with respect to the subject matter here involved its personnel are subject to your subpena However, the board will be pleased to be represented at the hearing on a voluntary basis because of the peculiar airspace problems in the California area.

Mr Oscar Bakke, Director of the Board's Bureau of Safety, has been designated to attend your hearing on May 20, in Los Angeles. Senators Knowland and Kuchel have been advised accordingly, and copies of this letter have been furnished them.

Sincerely yours,

/s/ JAMES R. DURFEE, Chairman

EXHIBIT F

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, May 8, 1958

HON. REX M CUNNINGHAM
Ventura, California

SUBPENA OF FEDERAL EMPLOYEES—NO. 3356

DEAR MR. CUNNINGHAM:

QUESTIONS

(1) Can a state legislative committee or subcommittee subpena an employee of the Federal Government to appear before the committee?

(2) If a federal employee appears before a committee or subcommittee of the California Legislature, in response to a subpena of such committee, would his refusal to testify constitute contempt of that committee if such refusal was the result of direct orders by his superiors?

(3) What steps, if any, can a state legislative committee or subcommittee follow to enforce compliance with subpenas issued by such committee or subcommittee?

OPINION

(1) In our opinion an employee of the Federal Government can be subpenaed to appear before the committee or subcommittee.

(2) The answer to your second question depends on the nature of the questions. In particular instances, it may be that the information sought is made confidential by federal statute or regulation, or the superior officer has authority to prohibit dissemination of the information. In such cases we do not believe the witness' refusal to answer would constitute contempt. If the hearing should acquire the character of an investigation into the operations of a federal agency, we likewise

believe that the witness would not be guilty of contempt by refusing to answer questions of this character. However, we are not aware of any general authority of federal officers to order their subordinates not to comply with state process and, by ordering them not to comply, to absolve their subordinates from the consequences of noncompliance.

(3) If the case is one in which the person subpenaed is under a duty to comply with the subpena, and the Legislature is not, at the time of the contempt, in session, the committee or subcommittee can petition the superior court for an order compelling attendance or testimony.

ANALYSIS

Your first two questions are not expressly answered by statute, and there is very little authority that is relevant. However, it has been stated as a general rule that a person cannot decline to testify in a proceeding merely because he is a government officer (*United States* v. *Meyer*, 113 Fed. 2d 387), and we do not believe that a federal employee could refuse to respond at all to a subpena merely because he is a federal employee.

In particular cases we believe that the employee, having appeared in compliance with the subpena, could decline to answer, and this action would not constitute contempt. This would be true if the information that is sought has been made confidential by federal statute or regulation, or a federal officer, acting pursuant to authority conferred on him by law, has prohibited dissemination of the information. Another such situation is suggested by the case of *United States* v. *Owlett*, 15 F. Supp. 736. In that case a Pennsylvania legislative committee was authorized by resolution to investigate the operations of the Works Progress Administration in Pennsylvania. That agency was concluded to be a federal agency. The court enjoined the committee from conducting the investigation. The court stated:

> "The attempt by the respondents, a committee appointed by the Senate of a sovereign state, to investigate a purely federal agency is an invasion of the sovereign powers of the United States of America. If the committee has the power to investigate under the resolution, it has the power to do additional acts in furtherance of the investigation; to issue subpoenas to compel the attendance of witnesses and the production of documents, and to punish by fine and imprisonment for disobedience. When this power is asserted by a state sovereignty over the federal sovereignty, it is in contravention of our dual form of government and in derogation of the powers of the federal sovereignty. The state having the power to subpoena may abuse that power by constantly and for long periods requiring federal employees and necessary federal records to be before an investigating committee. This power could embarass, impede, and obstruct the administration of a federal agency."

On the basis of this authority, it appears that if a hearing should acquire the character of an investigation into the operation of a federal agency, the federal employee would not be guilty of contempt if he refuses to answer questions of this character.

With reference to your third question, Section 9408 of the Government Code provides as follows:

> "If the contempt (failure to appear or refusal to testify) is committed before a committee when the Legislature is not in session, the superior court in and for the county in which any inquiry, investigation, hearing or proceeding may be held by the committee may compel the attendance of the witness, the giving of testimony, and the production of books, papers, documents and accounts, as required by the subpoena issued by the committee, on the filing by the committee of a petition to the court asking that the witness be so compelled."

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
/s/ By TERRY L. BAUM, Deputy

EXHIBIT G

NEAR COLLISION INCIDENTS—LOCATION BY STATE

States in which incidents occurred	*Class of Aircraft Involved*					
	Civil-civil	*Civil-unknown*	*Military-civil*	*Military-military*	*Military-unknown*	*Total*
Alabama	--	--	10	5	2	17
Arizona	1	3	13	11	2	30
Arkansas	2	--	4	2	--	8
California	33	2	96	61	10	202
Colorado	4	--	3	6	--	13
Connecticut	1	--	1	1	1	4
Delaware	1	--	5	5	2	13
Florida	8	2	24	18	1	53
Georgia	3	--	7	7	--	17
Idaho	--	--	1	--	--	1
Illinois	23	--	15	4	2	44
Indiana	2	--	3	1	1	7
Iowa	3	--	2	1	--	6
Kansas	1	--	6	7	--	14
Kentucky	--	1	4	2	--	7
Louisiana	1	--	5	--	--	6
Maine	--	--	2	2	--	4
Maryland	9	1	13	6	--	29
Massachusetts	3	--	4	1	--	8
Michigan	10	--	3	--	--	13
Minnesota	1	--	2	--	--	3
Mississippi	--	--	1	2	--	3
Missouri	2	--	3	5	2	12
Montana	1	--	2	1	--	4
Nebraska	2	--	2	3	--	7
Nevada	1	1	7	4	1	14
New Hampshire	--	--	1	1	--	2
New Jersey	10	--	11	8	2	31
New Mexico	2	--	9	7	1	19
New York	14	3	23	4	2	46
North Carolina	--	--	4	7	--	11
North Dakota	--	--	--	--	--	--
Ohio	12	--	8	3	1	24
Oklahoma	--	--	9	15	--	24
Oregon	6	--	3	2	--	11
Pennsylvania	7	3	19	5	1	35
Rhode Island	--	--	1	2	--	3
South Carolina	--	--	7	6	2	15
South Dakota	1	--	--	--	--	1
Tennessee	--	--	11	3	--	14
Texas	4	2	36	28	1	71
Utah	--	--	4	--	--	4
Vermont	--	--	--	--	--	--
Virginia	3	1	11	2	3	20
Washington	11	2	13	2	1	29
West Virginia	3	--	2	1	--	6
Wisconsin	2	--	3	--	--	5
Wyoming	3	--	--	1	1	5
District of Columbia	1	1	1	--	1	4
"Over the Ocean"	1	--	--	--	--	1
No state given	15	--	23	11	2	51
Totals	207	22	424	263	42	971

(From U S Civil Aeronautics Board Publication entitled "A Review of the Board's Near-Collision Program and the Statistical Factors of Incidents Reported during the Calendar Year 1957" dated May 19, 1958)

EXHIBIT H

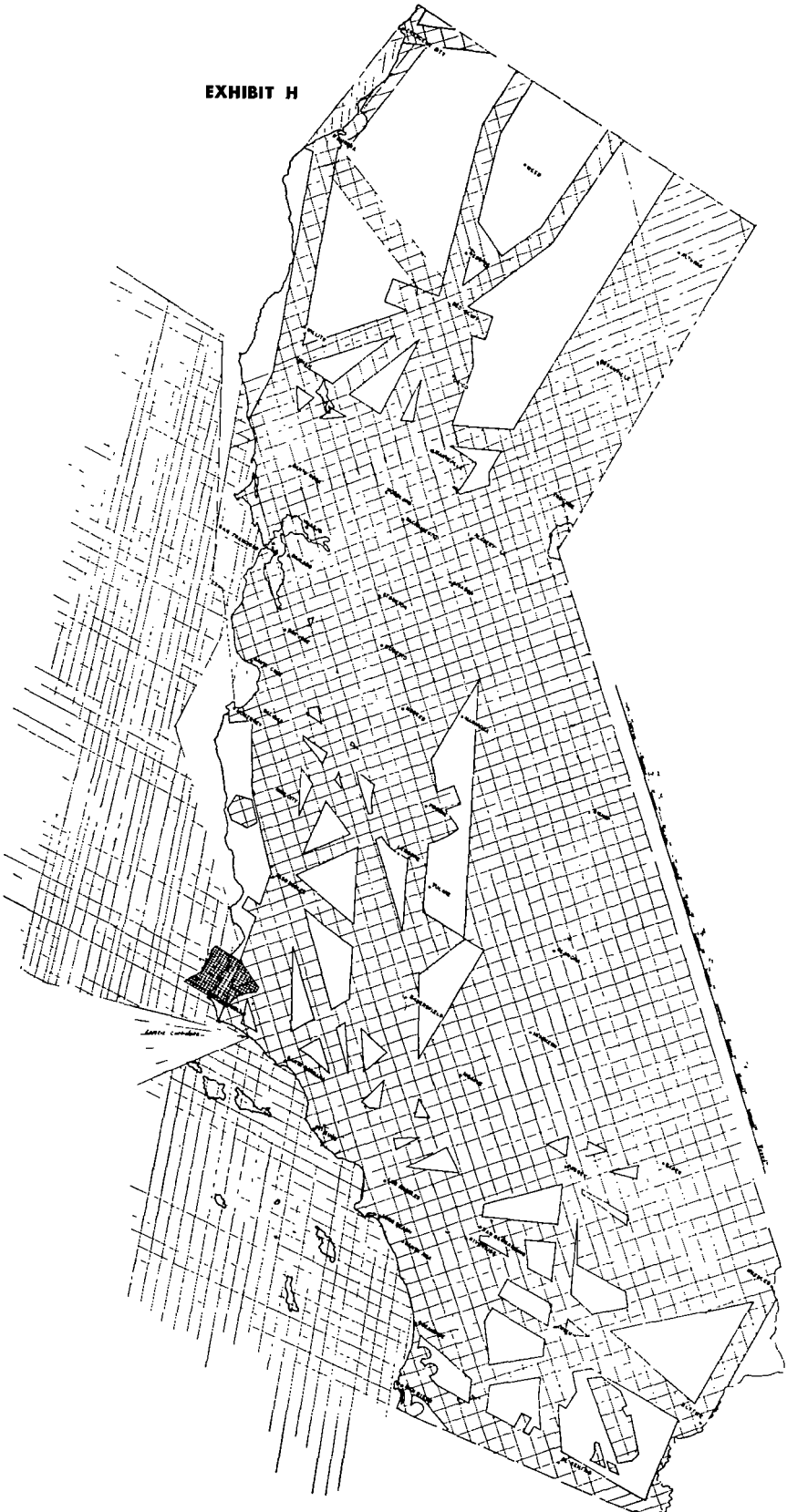
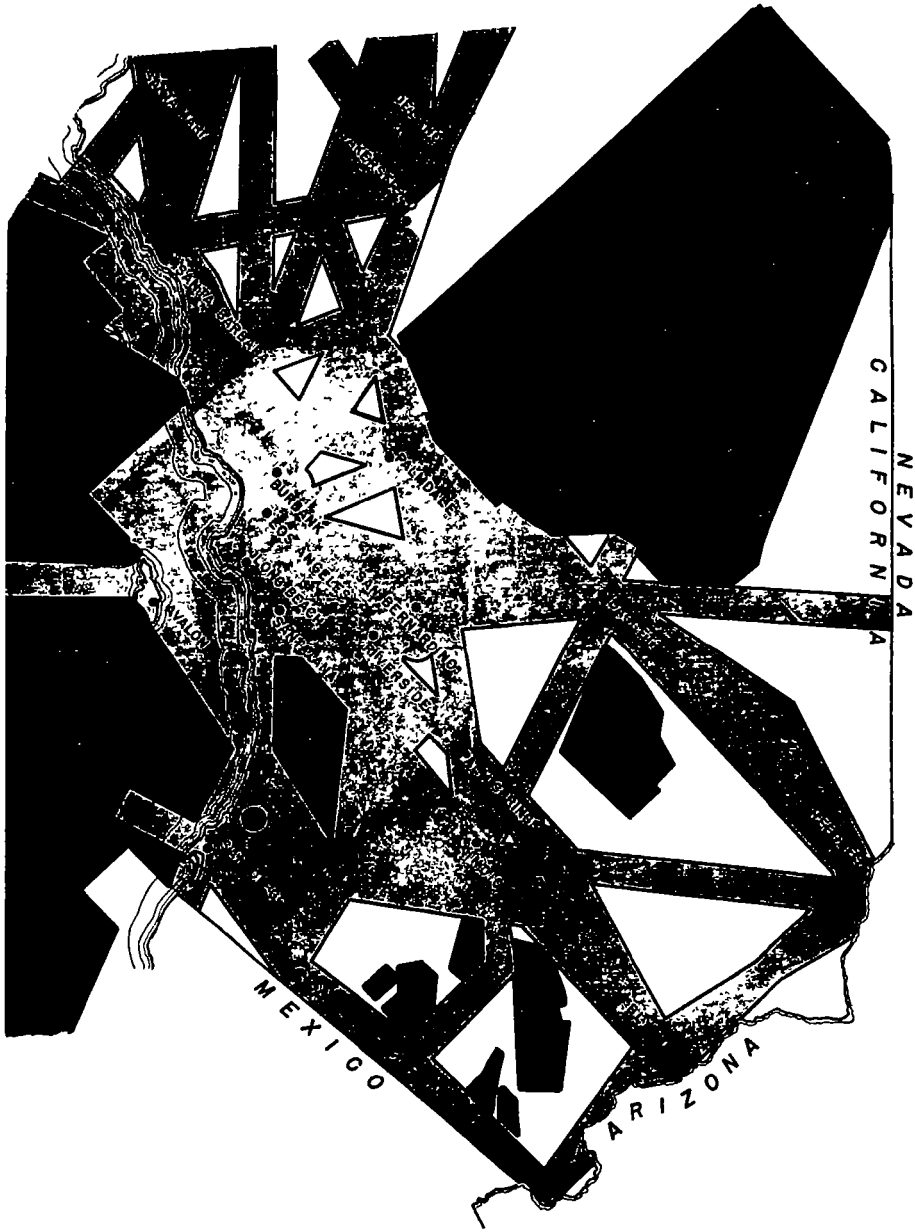


EXHIBIT I


NEVADA
CALIFORNIA
PASADENA
BURBANK
LOS ANGELES
LONG BEACH
SANTA ANA
RIVERSIDE
MEXICO
ARIZONA

REPORT OF THE

SUBCOMMITTEE ON ATOMIC ENERGY AND ITS RELATIONSHIP TO CORPORATIONS AND PUBLIC UTILITIES

to

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

MEMBERS OF SUBCOMMITTEE

CHARLES EDWARD CHAPEL, *Chairman*

CLAYTON A. DILLS

SETH J. JOHNSON

JAMES L. HOLMES

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SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
PUBLIC UTILITIES AND CORPORATIONS
SACRAMENTO, March 9, 1959

HON. REX M. CUNNINGHAM, *Chairman*
Assembly Interim Committee on Public Utilities and Corporations

DEAR MR. CUNNINGHAM: The Subcommittee on Atomic Energy and its Relationship to Corporations and Public Utilities herewith presents its report, findings and recommendations for legislation to the Assembly Interim Committee on Public Utilities and Corporations.

As chairman of the subcommittee I wish to respectfully request that if the Assembly Standing Committee on Public Utilities and Corporations passes Assembly Bill No. 1833 to the floor of the Assembly, that the bill be amended to show that it is the bill of the entire committee.

Respectfully submitted,

CHARLES EDWARD CHAPEL, Chairman

CLAYTON A. DILLS
JAMES L. HOLMES

SETH J. JOHNSON

INTRODUCTION

WHAT IS AN ATOM?

The word *atom* comes from *atomos,* a Greek word which means "not cuttable," that is, indivisible. It originated with Democritus, a Greek philosopher who lived from about 460 B.C. to about 362 B.C., and was further discussed by another Greek philosopher, Leucippus, of the same period.

Democritus taught that all matter is made up of indivisible, invisible, indestructible, tiny particles which can be called atoms. Leucippus said that all matter is made up of atoms, but then he went on to say that everything that happens in the universe has a reason behind it, that if we can only learn the laws of the universe we can solve the mysteries of life and death. In other words, he believed that atoms are the keys to the universe. Today, we know that the atom is cuttable, that it can be split, but much of what Democritus and Leucippus said about four centuries before the birth of Christ is still true.

In 1905, Albert Einstein said that matter and energy are actually different manifestations of the same thing, and that matter can be changed into energy. In 1905, Einstein's statement was in the realm of pure theory, but the principles underlying the conversion of matter into energy resulted in the discovery of nuclear fission as a practical process in 1939, the use of the atomic bomb in 1945 and our present highly developed atomic science for both peace and war.

The core or heart of the atom is the *nucleus.* When the nucleus is split, either spontaneously or from outside forces, the process is *nuclear fission.* The energy released is correctly called *nuclear energy,* although it is popular to speak of it as *atomic energy.*

Energy also is released when two nuclei are joined together under several millions of degrees of heat in a process we call *fusion,* hence the term *nuclear fusion,* which is merely another form of nuclear energy or atomic energy, as you choose to call it. Incidentally, nuclear fusion is the principle behind the hydrogen bomb but scientists are now working to employ nuclear fusion for peaceful purposes.

In this report we have set forth the laws of several states regarding nuclear fission in the first chapter and the laws enacted by California prior to 1959 in the second chapter. These first two chapters are primarily of interest to lawyers and those especially interested in the utilization of atomic energy by public utilities and corporations.

The third chapter lists all bills introduced by the Assembly and the Senate during the 1957 Regular Session and presents very brief comments on a few which were studied in preparing Assembly Bill No. 1833, which is set forth in the recommendations of the Subcommittee.

Finally, the reader of this report is respectfully reminded that we are discussing a force which can either improve or destroy our civilization, depending on how it is handled.

THE LAWS OF STATES OTHER THAN CALIFORNIA REGARDING NUCLEAR FISSION

Following is a letter from the Legislative Counsel dated January 18, 1959, his opinion No. 5696 and the laws of states other than California which would appear to regulate the use of atomic energy by public utilities and corporations.

These laws of other states were selected by the Legislative Counsel. They include the laws of Arkansas, Connecticut, Illinois, Kentucky, Maine, Massachusetts, New Hampshire, New Jersey, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Washington and Wyoming.

Obviously, the purpose of presenting the laws of other states is to enable the Legislature of the State of California and the citizens of California to compare laws on the statute books of other states with our own laws and proposed laws.

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, JANUARY 18, 1959

HONORABLE CHARLES EDWARD CHAPEL
Assembly Chambers

OTHER STATE UTILITY OR CORPORATION LAWS REGARDING NUCLEAR FISSION—NO. 5696

DEAR MR. CHAPEL: Pursuant to your request, we have prepared and enclose a memorandum of the laws of other states which would appear to regulate the use of atomic energy by public utilities and corporations. We have not included in this memorandum laws which merely direct state agencies to study problems arising out of the use of atomic energy and to recommend legislation or promulgate rulings on the subject. Administrative rulings are also omitted.

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By STANLEY M LOURIMORE, Deputy Legislative Counsel

STATE LAWS OF OTHER STATES REGULATING THE USE OF ATOMIC ENERGY—NO. 5696

ARKANSAS

Peaceful Uses of Atomic Energy

Acts of Arkansas 1957, Act 386

Sec. 2. United States Licenses or Permits Required.—No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility, wholly within this State unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

Sec. 5. Injunction Proceedings.—Whenever, in the opinion of the Attorney General, any person is violating or is about to violate Section 2 of this Act, the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this Act and upon a showing that such person has engaged or is about to engage in any such activity, a permanent or temporary injunction, restraining order, or other order may be granted.

[DEFINITIONS]
[¶ 17,067]

Sec. 6. Definitions, as used, in this Act.—(a) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) The term "by-product material" means any radioactive materials (except special nuclear materials) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing nuclear materials.

(c) The term "production facility" means (1) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

(d) The term "special nuclear material" means (1) plutonium and uranium enriched in the isotope 233 or in the isotope 235, any other material after the United States Atomic Energy Commission has determined the material to be such; or (2) any material artificially enriched by any of the foregoing.

(e) The term "utilization facility" means (1) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

(f) The term "operator" means any individual who manipulates the controls of a utilization or production facility.

CONNECTICUT

Utilization of Atomic Energy

Public Acts of Connecticut 1955, Act. No. 46 (as amended by Public Act No. 4, 1957)

Sec. 2. As used in this act: (a) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation; (b) "by-product material" means any radioactive materials, except special nuclear materials, yielded in or made radioactive by

exposure to the radiation incident to the process of producing or utilizing special nuclear materials; (c) "production facility" means (1) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device; (d) "special nuclear material" means (1) plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or (2) any material artificially enriched by any of the foregoing; (e) "utilization facility" means (1) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

Sec. 3. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this state unless he has first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission, if, pursuant to the Atomic Energy Act of 1954, the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

Sec. 6. Whenever, in the opinion of the attorney general, any person is violating or is about to violate section 3 of this act, the attorney general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this act and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.

Control of Sources of Ionizing Radiation

Public Acts of Connecticut 1957, Act. No. 154

Section 1. As used in this Act, "ionizing radiation" includes gamma rays, x-rays, alpha and beta particles, neutrons, protons, high-speed electrons and other atomic or nuclear particles, but does not include sound or radio waves or light of wave lengths ranging from infra-red to ultraviolet inclusive, and "radioactive materials": includes any materials solid, liquid or gas that emit ionizin gradiation spontaneously.

Sec. 2. No person, firm, corporation, town, city or borough shall operate or cause to be operated any source of ionizing radiation or shall produce, transport, store, possess or dispose of radioactive materials except under conditions which comply with regulations that may be incorporated in the sanitary code or with orders imposed by the state department of health for the protection of the public health. Such regu-

lations or orders shall be based to the extent deemed practicable by the state department of health on the regulations of the United States atomic energy commission, issued under authority granted to the said commission by the atomic energy act of 1954 and entitled "Standards for Protection against Radiation," or, if such regulations of the United States atomic energy commission should be deemed inappropriate by the state department of health, on the latest recommendations of the national committee on radiation, as published by the United States department of commerce, national bureau of standards. No sanitary code regulation pertaining to radiation sources and radioactive materials proposed to be issued by the state department of health shall become effective until thirty days after it has been submitted to the coordinator of atomic development activities unless, upon a finding of emergency need, the governor by order waives all or any part of this thirty-day period. In no case shall any source of ionizing radiation be utilized otherwise than at the lowest practical level consistent with the best use of the radiation facilities or radioactive materials involved.

Sec. 3. (a) Except as hereinafter provided, each person, firm, corporation, town, city and borough conducting or planning to conduct any operation within the scope of this Act shall register with the state department of health on forms provided for the purpose and shall re-register annually in January. The state department of health may require registrants to state the type or types of sources of radiation involved, the maximum size or rating of each source, the qualifications of the supervisory personnel, the protective measures contemplated by the registrant and such other information as it determines to be necessary. After initial registration, re-registration shall be required for any radiation installation or mobile source of radiation at any other time when any increase is contemplated in the number of sources, the source strength, the output or the types of radiation energy involved. The act of registration shall not be interpreted to imply approval by the state department of health of the manner in which the activities requiring registration are carried out. (b) The activities described below are exempted from the registration requirements of this Act: (1) The possession or operation of devices emitting x-rays for diagnostic or therapeutic purposes by or under the supervision of a person or persons licensed to practice medicine, surgery, osteopathy, chiropractic, naturopathy, dentistry, chiropody, and veterinary medicine and surgery, as authorized by law; (2) the production, transportation, storage, use and disposal of naturally occurring radioactive materials of equivalent specific radioactivity not exceeding that of natural potassium; (3) the production, transportation, storage, use and disposal of other radioactive materials in quantities insufficient to involve risk of radiologic damage to a person; (4) the operation of equipment that is primarily not intended to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach in quantities sufficient to produce radiologic damage to a person; (5) the transportation of any radioactive material in conformity with regulations of the interstate commerce commission or other agency of the federal government having jurisdiction.

ILLINOIS

Radiation Installations

Illinois Revised Statutes 1957, Chapter 111½

RADIATION INSTALLATIONS

AN ACT to require the registration of radiation installations as herein defined, to authorize the Department of Public Health to investigate and inspect all radiation installations in this State, to provide injunctive relief and penalties for violations of this Act, and to make an appropriation therefor. Approved July 5, 1957. L.1957, p. ——, S.B. No. 381.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

194. Definitions.] § 1. For the purposes of this Act:

(a) "Radiation" includes gamma rays and X-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles or electro-magnetic radiations capable of producing ions directly or indirectly in their passage through matter; but does not include sound or radio waves, or visible, infrared or ultraviolet light.

(b) "radiation machine" is any device which is capable of producing radiations when the associated control devices are operated.

(c) "radioactive material" is any material, solid, liquid or gas which emits radiation spontaneously.

(d) "radiation installation" is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed or used for any purpose.

(e) "operator" is an individual, group of individuals, partnership, firm, corporation or association conducting the business or activities carried on within a radiation installation.

(f) "sealed source" is any device containing radioactive material to be used primarily as a source of radiation which has been constructed in such a manner as to prevent the escape, under normal conditions, of any radioactive material.

(g) "Department" means the Department of Public Health of this State.

(h) "Director" means the Director of the Department of Public Health.

(i) "National Committee on Radiation Protection" shall include, in the event the National Committee on Radiation Protection ceases to recommend standards for radiation protection, the organization which is the successor to said Committee, or any comparable nationally recognized agency which is established for the purpose of recommending standards for radiation protection.

195. Registration of installation—Forms—Contents.] § 2. Every operator of a radiation installation shall register such installation with the Director of the Department of Public Health prior to January 1, 1958; provided, all radiation installations made on or after September 1, 1957, shall be registered with the Director before said installation is placed in operation. The registration shall be made on a form prescribed by the Department of Public Health. The form shall contain the following information: the name of the operator; the location and a designa-

tion of the confines of the installation; a statement of the type and strength of the sources of radiation expected to be produced, used, operated, stored or disposed of within the installation, and the approximate total number of each type; and, such other information as the Department may deem necessary. Provided, if the registration of each source of radiation or the type or strength of each source of radiation is impractical, the Director, upon request of the operator or central committee, may approve blanket registration of the installation.

A central committee (such as an isotope committee) having supervision for radiological safety over two or more radiation installations may, upon approval of the Director, register such installations in lieu of registration by the individual operator.

The registration of any radiation installation shall be effective until there is any change in such installation which might increase or decrease the number of sources, source strength, output or energy of radiation produced. If any change, as hereinbefore provided, occurs in any radiation installation, such change or changes shall be registered with the Director, on forms to be prescribed by the Department, as an amendment to the original registration The dates for filing such amendments are as follows: if the change or changes occur between January 1 and June 30, each inclusive, of any year, the amendment shall be filed between July 1 and July 31 of the year in which the change or changes occur; if the change or changes occur between July 1 and December 31, each inclusive, of any year, the amendment shall be filed between January 1 and January 31 following the year in which the change or changes occur. The amendment shall include all changes which have occurred during the period for which the amendment is filed Provided, if the registration of changes in the radiation installation by the filing of amendments is impractical, the Director, upon request of the operator or central committee, may approve blanket registration or blanket amendment to registration of such installation.

Whenever a radiation installation, which is registered under the provisions of this Act, discontinues to use radiation machines or to produce, transport, store, dispose or use radioactive materials, which discontinuance causes the installation to no longer be a radiation installation, required to be registered by this Act, the operator of such installation shall, within 30 days after such discontinuance, give written notice to the Director indicating the date of such discontinuance and the final disposition of all radiation machines and radioactive material.

Registration of any radiation installation shall not imply approval of manufacture, storage, use, handling, operation or disposal of radiation machines or radioactvie materials, but shall serve merely as notice to the Department of Public Health of the location and character of radiation sources in this State.

196. Materials not subject to act.] § 3. The registration requirements of this Act shall not apply to the following materials, machines or conditions:

(a) Natural radioactive materials of an equivalent specific radioactivity not exceeding that of natural potassium, except when such materials are produced, stored, used, handled or disposed in such quantity or fashion that any person might receive within a week a radiation

dose exceeding one-tenth the maximum permissible total weekly dose for any critical organ exposed, as determined by the standards established by the National Committee on Radiation Protection.

(b) Radioactive material in such quantity that if the entire amount were taken internally, continuously, or at one time by a person, no harmful effect would be likely to result. Listings of the upper limits of quantities of radioactive materials which are exempt from registration are given in the following table. These limits apply only for radioactive material not contained in sealed sources:

Radioactive Material	*Upper Limit Microcurie*	*Radioactive Material*	*Upper Limit Microcurie*	*Radioactive Material*	*Upper Limit Microcurie*
Pb^{210}	1	V^{48}	100	Tl^{200}	100
Po^{210}	1	Fe^{59}	100	Tl^{204}	100
At^{211}	1	Zn^{65}	100	Pb^{203}	100
Ra^{226}	1	Ga^{72}	100	Th^{234}	100
Ac^{227}	1	As^{76}	100	H^{3}	1000
U^{233}	1	Rb^{86}	100	Be^{7}	1000
Pu^{239}	1	Sr^{89}	100	C^{14}	1000
Am^{241}	1	Y^{91}	100	Na^{24}	1000
Cm^{242}	1	Nb^{95}	100	S^{35}	1000
Sc^{46}	10	Ta^{96}	100	K^{42}	1000
Co^{60}	10	Rh^{105}	100	Cr^{51}	1000
Sr^{90}	10	Cd^{109}	100	Fe^{55}	1000
Ag^{105}	10	Ag^{111}	100	Mn^{54}	1000
Ru^{106}	10	Sn^{113}	100	Ni^{59}	1000
Te^{129}	10	Te^{127}	100	Cu^{64}	1000
I^{131}	10	Ba^{140}	100	Ge^{71}	1000
Cs^{137}	10	La^{140}	100	Mo^{99}	1000
Ce^{144}	10	Pr^{143}	100	Pd^{103}	1000
Eu^{154}	10	Sa^{151}	100	Pa^{147}	1000
W^{181}	10	Ho^{166}	100	Ir^{190}	1000
Re^{183}	10	Ta^{170}	100	Au^{196}	1000
Ir^{192}	10	Lu^{177}	100	Tl^{201}	1000
P^{32}	100	Ta^{182}	100	Tl^{202}	1000
Cl^{36}	100	Pt^{191}	100	Natural U	1000
Ca^{45}	100	Pt^{193}	100	Natural Th	1000
Sc^{47}	100	Au^{198}	100		
Sc^{48}	100	Au^{199}	100		

(c) Radioactive materials in sealed sources in total quantities not exceeding one millicurie for a given installation.

(d) Timepieces, instruments, novelties or devices containing self-luminous elements, except during the manufacture of the self-luminous elements and the production of said timepieces, instruments, novelties; and except when the timepieces, instruments, novelties or devices are stored, used, repaired, handled or disposed in such quantity or fashion that any person might receive within a week a radiation dose exceeding one-tenth the maximum permissible total weekly dose for any critical organ exposed, as determined by the standards established by the National Committee on Radiation Protection.

(e) Electrical equipment that is primarily not intended to produce radiation and which operates in such a manner that no person may receive within a week a radiation dose exceeding one-tenth the maximum permissible total weekly dose for any critical organ exposed, as determined by the standards established by the National Committee on Radiation Protection. Provided, the production testing or production servicing of all such electrical equipment shall not be exempt from registration.

(f) Any radioactive material or radiation machine being transported on vessels, aircraft, railroad cars or motor vehicles in conformity with regulations adopted by any agency having jurisdiction over safety during transportation.

(g) Radiation machines, radioactive materials and radiation installations which the Department of Public Health finds to be without radiation hazard, as determined by the standards established by the National Committee on Radiation Protection.

197. Investigation.] § 4. The Department of Public Health is authorized to inspect and investigate the premises and operations of all radiation installations in this State, whether or not such installations are required to be registered by this Act, for the purpose of studying and evaluating the potential hazard to the health of the people of this State caused by the increasing use and operation of radiation machines and radioactive materials.

198. Public policy—Injunctive relief.] § 5. The conducting of any business or the carrying on of activities within a radiation installation without registering such installation or without complying with the provisions of this Act in regard to such installation is declared to be inimical to the public welfare and public safety and to constitute a public nuisance. It shall be the duty of the Attorney General, upon the request of the Department, to maintain an action in the name of the People of the State of Illinois to enjoin any operator from so unlawfully engaging in the business or activities conducted within the radiation installation until the operator of such installation complies with the provisions of this Act. Such injunctive remedy shall be in addition to, and not in lieu of any criminal penalty provided in this Act.

199. Penalties.] § 6. Any operator who fails to comply with the provisions of this Act is guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or be imprisoned in the county jail for not more than 6 months, or be both so fined and imprisoned; provided, each day that any operator so fails to comply shall constitute a separate offense.

[§ 7. Appropriation.]

200. Partial invalidity.] § 8. If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

KENTUCKY

Nuclear Energy

Kentucky Acts 1958, Chapter 146

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(1) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(2) "By-product material" means any radioactive material, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing nuclear materials.

(3) "Production facility" means (a) any equipment or device capable of the production of special nuclear material in such quantity as to

be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

(4) "Special nuclear material" means (a) plutonium and uranium enriched in the isotope 233 or in the isotope 235 and any other material after the United States Atomic Energy Commission has determined the material to be such; or (b) any material artificially enriched by any of the foregoing.

(5) "Utilization facility" means (a) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

Sec. 9. United States Licenses or Permits. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility within this Commonwealth unless he has complied with the Federal Atomic Energy Act of 1954 and amendments thereto and the rules and regulations promulgated by the United States Atomic Energy Commission.

Sec. 10. Injunction Proceedings. Whenever, in the opinion of the Attorney General, any person is violating or is about to violate any of the provisions of this Act, or is violating or is about to violate any of the rules and regulations promulgated under this Act, the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged, or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order may be granted.

MAINE

Peaceful Uses of Atomic Energy

Revised Statutes of Maine 1954, Chapter 52-A (1957 Cumulative Supplement)

Sec. 2. As used in this Chapter, the term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

The term "by-product material" means any radioactive materials, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

The term "production facility" means any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

The term "special nuclear material" means plutonium and uranium enriched in the isotope 233 or the isotope 235, and any other material

which the Governor declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or any material artificially enriched by any of the foregoing.

The term "utilization facility" means any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

The term "source material" means uranium, thorium or any other material which the Governor declares by order to be source material after the United States Atomic Energy Commission has determined the material to be such; or ores containing one or more of the foregoing materials, in such concentration as the Governor declares by order after the United States Atomic Energy Commission has by regulation so determined. [Sec 2 as amended by S. B. No 478, Laws 1957, effective August 28, 1957.]

Sec. 3. United States licenses or permits required. No person shall manufacture, produce, transfer, acquire or possess any special nuclear material, source material, by-product, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this State unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by person proposing to engage in activities of the same type over which it has jurisdiction. [Sec. 3 as amended by S. B. No. 478, Laws 1957, effective August 28, 1957.]

Sec. 6. Whenever, in the opinion of the Attorney General, any person is violating or is about to violate Section 3, the Attorney General may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this chapter and upon a showing that such person has engaged, or is about to engage in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.

MASSACHUSETTS

Massachusetts Commission on Atomic Energy

Annotated Laws of Massachusetts, Chapter 6 (1957 Cumulative Supplement)

Section 85. As used in sections 86 to 92, inclusive, the following words shall have the following meaning unless the context indicates otherwise:

"Atomic energy," all forms of energy released in the course of nuclear fission or nuclear transformation.

"By-product material," any radioactive material, except special nuclear materials yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

"Operator," any individual who manipulates the controls of a utilization or production facility.

"Production facility," (a) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

"Special nuclear material," (a) plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or (b) any material artificially enriched by any of the foregoing.

"Utilization facility," (a) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

Sec. 92. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility, or act as an operator of a production or utilization facility within this commonwealth unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

Sec 93. Whenever, in the opinion of the attorney general, any person is violating or is about to violate section ninety-two, the attorney general may apply to the appropriate court for an order enjoining such person from engaging or continuing to engage in the activity violative of said section, and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order or other order may be granted.

Atomic Energy Installations, Authority of Board of Boiler Rules

Annotated Laws of Massachusetts, Chapter 146 (1958 Advance Legislative Service)

Sec. 2. The board shall formulate rules or adopt rules formulated by a recognized engineering organization, for the construction, installation and inspection of steam boilers and power reactor vessels and piping as used in atomic energy installations and for ascertaining the safe working pressure to be carried therein; prescribe tests, if it deems it necessary, to ascertain the qualities of materials used in the construction of boilers, power reactor vessels and piping; formulate rules regulating the construction and sizes of safety valves for boilers of different sizes and pressures, appliances for indicating the pressure of steam and the level of water in the boiler or power reactor vessel, and such other

appliances as the board may deem necessary to safety in operating steam boilers or power reactor vessels; and make a standard form of certificate of inspection. The attorney general shall assist the board in framing the rules. Such rules shall be transmitted to the commissioner and be by him filed in the office of the state secretary, and when so filed shall have the force of law.

NEW HAMPSHIRE

Atomic Energy Development Activities

New Hampshire Laws 1955, Chapter 281

Sec. 2. United States Licenses or Permits Required. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility or act as an operator of a production or utilization facility wholly within this state unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

Sec. 5. Injunction Proceedings Whenever, in the opinion of the attorney general, any person is violating or is about to violate section 2 of this act, the attorney general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this act and upon a showing that such person has engaged, or is about to engage in any such activity, a permanent or temporary injunction, restraining order, or other order may be granted.

Sec. 7. Definitions. As used in this act,

I. The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

II. The term "by-product material" means any radioactive materials (except special nuclear materials) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

III. The term "production facility" means (1) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

IV. The term "special nuclear material" means (1) plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or (2) any material artificially enriched by any of the foregoing.

V. The term "utilization facility" means (1) any equipment or device, except an atomic weapon, capable of making use of special

nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

NEW JERSEY

Radiation Protection

Laws of New Jersey 1958, Chapter 116

10. All sources of radiation shall be shielded, transported, handled, used and kept in such manner as to prevent all users thereof and all persons within effective range thereof from being exposed to unnecessary radiation.

[VIOLATIONS]
[¶ 17,343j]

11. Whenever the department finds that there has been a violation of any of the provisions of this act or any codes, rules or regulations of the commission, resulting from the construction, operation or maintenance of a source of radiation, it shall notify any person or legal entity found to be causing, allowing or permitting such violation, of the nature of that violation and order that prior to a time fixed by the department, which time shall not be later than 2 years from the date of service of the notice, that person or legal entity shall cease and abate causing, allowing or permitting such violation and take such action as may be necessary for the source of radiation to be constructed, operated or maintained in compliance with this act and codes, rules or regulations promulgated by the commission.

12. Whenever the department finds that an emergency exists requiring immediate action to protect the public health or welfare, it may issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, on application to the department, shall be afforded a hearing within 5 days. On the basis of such hearing the department may continue such order in effect or revoke, amend or modify such order.

13. The department may bring a civil action in the Superior Court to prevent the violation of the provisions of this act or codes, rules or regulations promulgated by the commission and orders of the department and said court may proceed in the action in a summary manner or otherwise and may restrain in all such cases any person or legal entity from violating any of the provisions of this act or said codes, rules, regulations or orders.

14. Any notice, order or other instrument issued pursuant to this act may be served personally or by mailing a copy thereof by certified mail directed to the person or legal entity affected.

15. No existing civil or criminal remedy for any action which is a violation of any code, rule or regulation of the commission shall be excluded or impaired by this act.

16. Any code, or rule or regulation of the commission or determination or finding of the department shall be reviewable in the Superior Court by a proceeding in lieu of prerogative writ.

17. No ordinance, resolution or regulation concerning unnecessary radiation adopted by any municipality, county or local board of health shall be effective until a certified copy of such ordinance or regulation has been submitted to the commission and approved by the commissioner of the department. Such ordinances or regulations may not be approved unless the same shall be consistent with this act or any code, rule or regulation issued pursuant hereto.

NORTH DAKOTA

Radiation Regulations

Laws of North Dakota 1957, Chapter 185

Sec. 2. Definitions. For the purposes of this Act, the following words and phrases are defined:

1. Radiation is gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

2. Radiation machine is any device that produces radiations when the associated control devices are operated.

3. Radioactive material is any material, solid, liquid, or gas, that emits radiation spontaneously.

Sec. 3. Registration Agency. The North Dakota State Department of Health is hereby designated as the Agency to receive registration applications and to issue certificates of registration.

Sec. 4. Registration Required. Each manufacturer, processor, and refiner of radioactive isotopes and each hospital, clinic, manufacturing establishment, research or educational institution, experiment station, processing mill, or other institution or place of business or process where radiation is produced or radioactive materials are used, manufactured, processed, packaged, refined, produced, disposed or concentrated shall register with the State Department of Health. The State Mine Inspector shall register with the State Department of Health any mine which is producing or has produced radioactive substances. It shall be the duty of each manager or officer in charge of any institution or establishment concerned with radioactive materials as described herein to make written application to the State Health Officer for a registration form.

Sec. 5. Certificate of Registration. Upon satisfactory completion and submission of the registration form supplying the required information to determine whether the health of the public or persons working in such establishments may be adversely affected by using, manufacturing, processing, packing, refining, disposing, producing or concentrating of such radioactive isotopes and materials, the State Health Officer shall issue the applicant a certificate of registration.

Sec. 6. Penalty. Any person, firm establishment or institution as set forth in Section 4 of this Act who shall fail to register and obtain a certificate of registration as required by this Act shall be deemed guilty of a misdemeanor.

OHIO

Development and Utilization of Atomic Energy for Peaceful Purposes

Ohio Revised Code

Sec. 4163.01. As used in sections 4163.01 to 4163.05, inclusive, of the Revised Code:

(A) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(B) "By-product material" means any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear materials.

(C) "Production facility" means any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

(D) "Special nuclear material" means plutonium or uranium enriched in the isotope 233 or in the isotope 235, or any other material which the governor declares by order to be special nuclear material.

(E) "Utilization facility" means any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

(F) "Radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

Sec. 4163.02. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility or act as an operator of a production or utilization facility wholly within this state unless he has obtained whatever license or permit, if any, is required for engaging in the same type of activity by the Atomic Energy Act of 1954 of the United States or by any regulation issued thereunder. This section shall not prohibit or limit or require an additional license for the use of by-product materials for medical purposes by phyicians licensed to practice medicine in this state.

Sec. 4163.06. Whenever, in the opinion of the attorney general, any person is violating or is about to violate section 4163.02 of the Revised Code, the attorney general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of said section and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order, or other order may be granted.

SOUTH CAROLINA

The Peaceful Uses of Atomic Energy

Acts and Joint Resolutions of South Carolina 1956, Act No. 819

Sec. 3. (a) As used in this Act, the term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) The term "by-product material" means any radioactive materials, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

(c) The term "production facility" means any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

(d) The term "special nuclear material" means plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the State Budget and Control Board declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or any material artificially enriched by any of the foregoing.

(e) The term "utilization facility" means any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or any important component part especially designed for such equipment or device.

Sec. 4. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this State unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

SOUTH DAKOTA

Public Health and Protection From Harmful Radiation Exposure

Session Laws of South Dakota 1957, Chapter 122

Sec. 2. For the purposes of this Act, the following words and phrases are defined:

(1) Radiation is gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared or ultraviolet light.

(2) Radiation machine is any device that produces radiations when the associated control devices are operated.

Sec. 3. The authority for enforcement of the provisions of this Act shall be vested in the State Department of Health, hereinafter referred to as the Agency.

The State Health Officer, hereinafter referred to as the Director, shall perform and carry out all functions, and duties given to the Agency under this Act, and shall direct, carry out, and enforce all radiation safety control activities and measures vested in the Agency.

In accordance with the laws of the state, the Agency may employ, compensate, and prescribe the powers and duties of such persons as may be necessary to carry out the provisions of this Act.

The Director may delegate to officers and employees of the Agency such functions, duties, and authority as are vested in the Agency by this Act; except the authority to adopt and promulgate standards, rules, and regulations, and to issue or modify orders.

Sec. 5. It shall be unlawful for any person to produce radiation, or to produce, use, store, or dispose of radioactive materials, unless he registers in writing with the Agency in accordance with the procedures prescribed by such Agency. The Agency may exempt from registration radiation machines or radioactive materials known to be without hazard.

It shall be unlawful for any person so registered with the Agency to modify, extend, or alter programs involving the production of radiation or the production, use, storage, or disposal of radioactive materials unless he notifies the Agency in accordance with procedures prescribed by the Agency.

It shall be unlawful for any person to produce radiation, or to produce, use, store, or dispose of radioactive materials, except in accordance with the provisions of this Act and rules and regulations promulgated thereunder.

Sec. 7. Designated representatives of the Agency shall inspect and examine such sources of radiation as it desires, in order to determine their compliance with the adopted radiation-protection standards of the Agency.

Sec. 8. The Agency or its duly authorized representative shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relative to the purposes of the Act.

Any authorized representative of the Agency may examine any records or memoranda pertaining to the operation of radiation machines and exposure to radiactive materials The Agency may require the maintenance of records relating to the operation of disposal systems. Copies of such records must be submitted to the Agency on request.

Sec 9. Any person who violates any of the provisions of, or who fails to perform any duty imposed by this Act, or who violates any order or rule of the Agency promulgated pursuant to this Act, shall be guilty of a misdemeanor, and in addition thereto may be enjoined in a civil action by a court of competent jurisdiction from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.

It shall be the duty of the Attorney General on the request of the Agency to bring any action for an injunction against any person violating the provisions of this Act, or violating any rule or order of the Agency.

TENNESSEE

Peaceful Uses of Atomic Energy

Public Acts of Tennessee 1957, Chapter 92

Section 2. Definitions. As used in this Act: Be it further enacted, That

(a) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) "By-product material" means any radioactive materials (except special nuclear materials) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

(c) "Production facility" means (1) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device.

(d) "Special nuclear material" means (1) plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Governor declared by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such: or (2) any material artificially enriched by any of the foregoing.

(e) "Utilization facility" means (1) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adopted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public or (2) any important component part especially designed for such equipment or device.

(f) "Radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves or visible, infrared, or ultraviolet light.

Section 3. United States Licenses or Permits Required. Be it further enacted, That no person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility, or utilization facility, or act as an operator of a production or utilization facility within this State unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the Commission requires a license or permit to be obtained by persons proposing to engage in such activities.

WASHINGTON

Peaceful Uses of Atomic Energy

Session Laws, State of Washington 1957, Chapter 92

Sec 2. As used in this act:

(1) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation

(2) "Byproduct material" means any radioactive materials (except special nuclear materials) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.

(3) "Production facility" means (a) any equipment or device capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device

(4) "Special nuclear material means (a) plutonium and uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission has determined the material to be such; or (b) any material artificially enriched by any of the foregoing.

(5) "Utilization facility" means (a) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (b) any important component part especially designed for such equipment or device.

(6) "Radiation" means gamma rays and X-rays, alpha and beta particles, highspeed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infra-red, or ultra-violet light.

Sec. 3. No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, byproduct material, production facility, or utilization facility, or act as an operator of a production or utilization facility wholly within this state unless he shall have first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, the commission requires a license or permit to be obtained by persons proposing to engage in such activities.

Sec 11. Whenever, in the opinion of the attorney general, any person is violating or is about to violate Section 3 of this act, the attorney general may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the activity violative of this act and upon a showing that such person has engaged. or is about to engage in any such activity, a permanent or temporary injunction, restraining order, or other order may be granted.

WYOMING

Registration of Users of Radioactive Isotopes or Materials

Session Laws of Wyoming 1953, Chapter 61 (as amended by Chapter 153, 1955)

Sec. 1. Each hospital, clinic, manufacturing establishment, research or educational institution, experiment station, processing mill, or other institution or place of business or process where radioactive isotopes or materials are used, manufactured, processed, packaged, refined, produced, disposed or concentrated shall be registered with the State Department of Public Health. The State Mine Inspector will register with the Department of Public Health any mine, which is producing or has produced radioactive substances.

Sec. 2. It shall be the duty of each manager or officer in charge of any such institution or establishment as set forth in Section One (1) of this Act, where radioactive isotopes or materials are used, as herein provided, to apply for registration in writing to the Director of the Department of Public Health. Upon receipt of such application the Director of the State Department of Public Health shall submit to the applicant a registration form calling for such information as may be necessary to determine whether the health of the public or persons working in such establishments may be adversely affected by using, manufacturing, processing, packing, refining, disposing, producing or concentrating of such radioactive isotopes and materials. The Director of the Department of Public Health, upon receipt of a properly executed application for registration and upon satisfactory compliance by such applicant with regulations and limits that are or shall be in effect governing the same exposure to such isotope or material, shall issue to the applicant a certificate of registration.

Sec. 3. All persons, firms, establishments or institutions as set forth in Section 1 of this Act who shall fail to obtain the necessary registration as provided for by this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred ($100.00) dollars for each offense.

LAWS ENACTED BY CALIFORNIA REGARDING ATOMIC ENERGY PRIOR TO 1959

Research has revealed that probably the first statute enacted in California for the protection of the public from atomic energy or radioactive materials was Senate Bill No. 1552, which became Chapter 1868 of the Statutes of 1955, which added Chapter 7 (commencing at Section 25600) to Division 20 of the Health and Safety Code to regulate the disposal of radioactive wastes.

Probably the second law in this field was Assembly Bill No. 3092 by Charles Edward Chapel, which became Chapter 528 of the Statutes of 1957, an act amending Section 6311 of the Labor Code, relating to workmen's safety from exposure to ionizing radiation and radioactive materials.

These two California laws are reproduced as Exhibits A and B of this report and show what the State of California enacted before 1959.

ATOMIC ENERGY BILLS INTRODUCED DURING 1957 REGULAR SESSION, CALIFORNIA STATE LEGISLATURE

During the 1957 Regular Session of the California Legislature, the following Senate Bills were introduced relating to atomic energy: Senate Bill No. 654, Senate Bill No. 655, and Senate Bill No. 2625. During the same session, the following Assembly Bills were introduced relating to the same subject: Assembly Bill No. 975, Assembly Bill No. 1374, Assembly Bill No. 3091, Assembly Bill No. 3092, Assembly Bill No. 3093, Assembly Bill No. 3094, Assembly Bill No. 4017 and Assembly Bill No. 4126. The only one of these bills enacted into law was Assembly Bill No. 3092 which became Chapter 528, Statutes of 1957, an act to amend Section 6311 of the Labor Code, set forth in detail as Exhibit B of this report.

Several of these bills were intended to add to or amend existing code sections, an example being Assembly Bill No. 3092 which was enacted into law. However, in this chapter we are concerned with those bills which provided for a new basic or fundamental law on the peaceful uses of atomic energy. The primary purpose of all such bills was to provide some measure of state control of atomic energy activities consistent with the laws of the United States.

For example, Senate Bill No. 654 by Senator Miller and others, would have created a Radiation Safety Commission consisting of five members appointed by the Governor. A somewhat similar bill by Senator Miller, Senate Bill No. 2625, would have created an Office of Atomic Development Activities in the Office of the Governor with the Director having the title of Co-ordinator of Atomic Development Activities. The bill also would have included a Governor's Council on Atomic Development Activities, consisting of the Co-ordinator of Atomic Development Activities and the heads of various state agencies, plus a citizens' advisory committee on atomic development consisting of no more than 15 members appointed by the Governor.

Assembly Bill No. 4126 by Bruce F. Allen (co-authored by Mr. Lindsay) would have created a Radiological Safety Agency, including a technical council consisting of seven members appointed by the Governor plus a director also appointed by the Governor, together with a Radiation-Protection Co-ordinating Committee, composed of representatives of state departments and the Director of the Radiological Safety Agency.

Assembly Bill No. 975 by Chapel and others, would have created in the Office of the Governor the Office of Atomic Development Activities with a director having the title of Co-ordinator of Atomic Development Activities. In addition, the bill provided for a Governor's Council on Atomic Development Activities consisting of various heads of state agencies and departments and other state officials. Furthermore, the bill included a Citizens' Advisory Committee on Atomic Development consisting of no more than 15 members appointed by the Governor.

FINDINGS OF THE SUBCOMMITTEE

These bills providing for a fundamental or basic law (as distinguished from those merely adding to or amending existing codes without establishing any pronounced change in state policy) were amended

and had a rather involved legislative history, hence it is impossible to adequately evaluate any of them briefly. However, it is the opinion of the subcommittee preparing this report that all such bills had the same objective, namely, the protection of the people of the State of California.

Whether the bill calls for a co-ordinator, commission, council, agency or other entity, a careful study of each bill introduced in 1957 shows that the appointing power is in the hands of the Governor, hence the terminology and the number of layers of advisory bodies is, in the last analysis, immaterial.

Examining the 1957 bills from another angle, it appears that the amount and kind of authority to be exercised in some degree of state control over the peaceful uses of atomic energy is an important issue. The subcommittee preparing this report believes that the person or persons appointed by the Governor should have enough authority to do the job but not enough to jeopardize the traditional and existing powers of the Governor, the Legislature and the courts.

RECOMMENDATIONS OF THE SUBCOMMITTEE

Legislation has been defined as the "art of the possible." After a study of the 1957 bills and the laws of other states, the subcommittee recommends the enactment of Assembly Bill No. 1833. (See Exhibit C.) It is an act to add Chapter 8 (commencing at Section 25625) to Division 20 of the Health and Safety Code but it is presented by members of the Assembly Public Utilities and Corporations Committee because industries producing or utilizing atomic energy are, to the best of our knowledge and belief, corporations and public utilities. We believe that Assembly Bill No. 1833 is a bill which contains the best features of all the 1957 bills and one which it is possible for the Legislature to pass, the Governor to sign and the people to live with.

EXHIBIT A

Senate Bill No. 1552

CHAPTER 1868

An act to add Chapter 7 to Division 20 of the Health and Safety Code, relating to radioactive wastes.

[Approved by Governor July 9, 1955. Filed with Secretary of State July 11, 1955.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 is added to Division 20 of the Health and Safety Code. to read:

CHAPTER 7. RADIOACTIVE WASTES

25600. As used in this chapter the following terms have the meanings described in this section:

(a) "Radioactive wastes" means any nonusable materiels which have been contaminated with radioactive particles or compounds which emit Gamma rays and Alpha and Beta particles.

(b) "Department" means the State Department of Public Health.

(c) "Person" includes any association of persons, copartnership or corporation.

25601. No person shall bury, throw away, or in any manner dispose of radioactive wastes in such a manner as to endanger the lives or health of human beings.

25602. The department may, by written order, prohibit the disposal of radioactive wastes by any person when, upon investigation, it has determined that such disposal violates the provisions of Section 25601.

25603. The issuance of an order provided in Section 25602 shall not prevent any person from disposing of radioactive wastes if such disposal is not prohibited by Section 25601.

25604. The department may bring an action in a court of competent jurisdiction to enjoin the disposal of radioactive wastes in a manner contrary to the terms of any written order issued by the department pursuant to Section 25602. The court may, if it appears necessary, enjoin any person from using special nuclear material who thereby produces radioactive wastes during the period that such radioactive wastes, to the knowledge of such person, is being disposed of in violation of the provisions of this chapter.

EXHIBIT B

Assembly Bill No. 3092

CHAPTER 528

An act to amend Section 6311 of the Labor Code, relating to workmen's safety from exposure to ionizing radiation and radioactive materials.

[Approved by Governor May 22, 1957. Filed with Secretary of State May 22, 1957.]

The people of the State of California do enact as follows:

SECTION 1. Section 6311 of the Labor Code is amended to read:

6311. "Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger, including the danger of exposure to potentially injurious levels of ionizing radiation or potentially injurious quantities of radioactive materials.

EXHIBIT C

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1833

Introduced by Messrs. Chapel, Cunningham, Backstrand, Johnson, Britschgi, Burke, Cameron, Dills, Francis, Hawkins, and Waldie

March 4, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Chapter 8 (commencing at Section 25625) to Division 20 of the Health and Safety Code, relating to atomic energy.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 8 (commencing at Section 25625) is
2 added to Division 20 of the Health and Safety Code, to read:
3
4 CHAPTER 8. ATOMIC ENERGY
5
6 Article 1. Declaration of Public Policy
7
8 25625. The Legislature recognizes that the development of
9 industries producing or utilizing atomic energy may result in
10 new conditions calling for changes in the laws of the State
11 and in regulations issued thereunder with respect to health and
12 safety and therefore declares the policy of the State to be:
13 (a) To adapt its laws and regulations to meet the new con-
14 ditions in ways that will encourage the healthy development
15 of industries producing or utilizing atomic energy while at
16 the same time protecting the public interest; and
17 (b) To initiate continuing studies of the need for changes
18 in the relevant laws and regulations of the State by the

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1833 as introduced, Chapel (P. U & C.). Production and utilization of atomic energy.

Adds Ch. 8 (commencing at Sec. 25625), Div. 20, H. & S. C.

Establishes a Radiological Safety Agency, including a Technical Council and a director appointed by the Governor with the advice and consent of the Senate, and prescribes its powers and duties regarding the peaceful uses of atomic energy and radiation.

Provides that no regulation of any other state agency regarding atomic energy, radioactive materials, and radiation equipment shall become effective until approved by the Technical Council.

respective departments and agencies of the State which are responsible for their administration; and

(c) To assure the co-ordination of the studies thus undertaken, particularly with other atomic activities of the State and with the regulatory activities in other states and of the Government of the United States, including the Atomic Energy Commission.

Article 2. Definitions

25630. Unless the context otherwise requires, the provisions of this article govern the construction of this chapter.

25631. "Agency" means the seven members of the Technical Council and the director with such staff as provision for which is hereafter made.

25632. "Director" means the person appointed by the Governor to administer the agency.

25633. "Radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

25634. "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear fusion.

Article 3. Radiological Safety Agency

25640. There is hereby created in the State Government the Radiological Safety Agency.

25641. There shall be a Technical Council in the Radiological Safety Agency consisting of seven members, including a person specially trained and experienced in the field of radiation safety, a physician and surgeon who is experienced in the field of hospital administration and specially trained in the field of radiant energy, a scientist in the field of atomic energy, a producer of radiation equipment, a consumer or user of radiation equipment or material, a qualified representative of organized labor, and one member at large. All members of the Technical Council shall be appointed by the Governor, subject to the advice and consent of the Senate, and serve at his pleasure. It is the legislative intent that the most highly qualified persons in the field shall be considered for appointment. They shall receive compensation for their services at the rate of twenty-five dollars ($25) a day, together with such expenses as are necessarily incurred in the performance of their services as members of the Technical Council. No member shall hold any other state office or be employed by any other state agency, the University of California excepted. For this inception there shall be expenses allowed but no honorarium shall be paid. All meetings of the Technical Council shall be public. All records of official acts and all writings pertinent to such acts shall be available to public inspection during the regular hours of business of the agency.

25642. The Technical Council shall establish the policy to be followed by the director in administering the agency.

25643. The director shall be appointed by the Governor, subject to confirmation by the Senate, and serve at his pleasure.

25644. Pursuant to law, the director may employ and prescribe the powers and duties of such employees of the agency as may be necessary for the full exercise of its powers and duties. Insofar as practicable, technical, legal, or other services shall be performed for the agency by other officers and employees of the State, and existing departments and agencies thereof.

Article 4. Powers and Duties

25650. The agency shall have the following powers and duties:

(a) To develop comprehensive policies and programs for the evaluation and determination of hazards associated with the peacetime use of radiation;

(b) To advise, consult, and co-operate with other agencies of the State, the Federal Government, other states and interstate agencies, and with affected groups, political subdivisions, and industries for the amelioration of such hazards;

(c) To encourage, participate in, or conduct studies, training, and demonstrations relating to the control of radiation hazard, the effects on health of exposure to radiation, and related problems as it may deem necessary or advisable for the discharge of its duties under this chapter.

(d) To, within the framework of fiscal and other established policies, provide radiological laboratory assay service and other technical assistance and advice in the field of radiation use, health, and safety to officers or agencies of the State and its political subdivisions;

(e) To review and advise on the policies and programs of other state and local agencies as developed under the authority of this chapter;

(f) To promote the co-ordination of radiation protection activities within the State; and

(g) To make recommendations as to radiation protection standards related to generation or production of radiation; production, transport, use, storage, or disposition of radioactive materials.

25651. The agency shall collect and disseminate information relating to the determination and control of radiation exposure and hazard.

25652. Upon request, the agency may render opinions concerning such plans and specifications relative to the design and shielding of radiation sources as may be submitted before or after construction, for the purpose of determining the possible radiation hazard.

25653. In co-operation with any other officers or agencies of the State empowered to do so and in accordance with law, the agency may make inspections of radiation sources, shielding and immediate surroundings for the determination of any possible radiation hazard and to provide the owner, user, or operator thereof, with a report of any known or suspected deficiencies therein.

25654. The agency may adopt, promulgate, revise, modify, and repeal such rules and regulations as may be necessary to carry out the provisions of this chapter or to implement or effectuate its powers and duties, and to that end the agency may co-operate with any other officers or agencies of the State.

25655. In adopting, promulgating, revising, modifying, or repealing all rules and regulations and in the exercise of its powers and duties under the provisions of this chapter, the agency shall proceed in conformity with the provisions of Chapters 4 (commencing with Section 11370) and 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

25656. The agency shall serve as a technical advisory group, and no regulation of any other state agency hereinafter adopted affecting or pertaining to the production and utilization of atomic energy and the ownership, transportation, or operation of radioactive materials and radiation equipment shall become effective until approved by the Technical Council. The Technical Council shall adopt policies and standards relating to radiation safety not covered by the Atomic Energy Commission licenses.

REPORT OF THE SUBCOMMITTEE ON CORPORATION LAWS

TO

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

MEMBERS OF SUBCOMMITTEE

LOUIS FRANCIS, *Chairman*

MONTIVEL A. BURKE
CHARLES EDWARD CHAPEL
ALAN G. PATTEE
CHARLES H. WILSON

ROBERT S. THURN, *Consultant*
NORMA WAGGERSHAUSER, *Secretary*

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SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
PUBLIC UTILITIES AND CORPORATIONS
SACRAMENTO, March 14, 1959

HON. REX M. CUNNINGHAM, *Chairman*
Assembly Interim Committee on Public Utilities and Corporations

DEAR MR. CUNNINGHAM: Attached is the report of the Subcommittee on Corporation Laws. The report presents the results of a subcommittee study conducted during the 1957-59 interim, summarizes the testimony presented at two hearings, and presents the subcommittee findings and recommendations.

The committee wishes to express its appreciation to the many individuals and organizations for valued assistance, the results of which are reflected in this report.

Respectfully submitted,

LOUIS FRANCIS, Chairman
MONTIVEL A. BURKE
CHARLES EDWARD CHAPEL
ALAN G. PATTEE
CHARLES H. WILSON

PERSONS APPEARING BEFORE THE COMMITTEE

JORDAN E. BEYER, Jerrold Electronics Corporation

BERNARD BRENNAN, Attorney, Skiatron TV, Inc.

ARNOLD C. CHILDHOUSE, Treasurer, United California Theaters, Inc.

JEROME L. DOFF, Vice President and Director, Skiatron TV, Inc.

WILLIAM W. DUNLOP, *California Public Utilities Commission*

ROBERT M. EDWARDS, California Home Teletheaters

JOHN A. FORDE, International Representative, International Alliance Theatrical Stage Employees and Moving Picture Machine Operators

GEORGE A. GITCHELL, Assistant Vice President, Pacific Telephone and Telegraph Company

DION R. HOLMES, City Attorney, City and County of San Francisco

CARL M. HOLMES, Legislative Representative, Pacific Telephone and Telegraph Company

LEWIS KELLER, Associate Counsel, League of California Cities

OWEN K. KUNS, Deputy Legislative Counsel

CHESTER I. LAPPEN, Counsel for Telemeter Corporation, Los Angeles

MELVIN E. MEZEK, Utility Engineer, Public Utilities Commission

ARTHUR M. SCHAFFER, San Francisco Citizen

G. P. SLETTELAND, Counsel, Zenith Radio Corporation

HERBERT A SMITH, Assistant Commissioner, Division of Corporations, Los Angeles Division

E. STRATFORD SMITH, General Counsel, National Community Television Association, Inc.

L. M. SUMMEY, Deputy District Attorney, San Mateo County

BROLEY E. TRAVIS, Chief, Valuation Division, State Board of Equalization
JULIUS F. TUCHLER, Pacific Drive-in Theaters Corporation
ALEX B. YAKUTIS, Deputy Legislative Counsel

SCOPE OF THE SUBCOMMITTEE'S STUDIES

The subcommittee limited its studies to two very important and vital problems. First, the problem of the impact on the public with the introduction of pay-to-see television in the State of California and whether or not legislation was necessary to protect the viewing public against the possible withdrawal of programs presently being received by them at no charge. Secondly, the problem of the growth of fraud in the sale of business franchises and whether or not legislation was necessary in this regard.

PAY-TO-SEE TELEVISION SYSTEMS

There are two basic types of systems which would require payment on the part of the public if use was made of the system. One type of pay-to-see television system makes use of an existing and unassigned air channel, the picture would be received through the air and would require equipment be installed on the viewers' television set to unscramble the signal sent out by the pay-to-see TV distributor. This type of system is under the control of the Federal Communications Commission and the State of California has little or no control over it.

The other type of system is called a closed circuit system. The signal in the closed circuit system is delivered to the viewers' television set by the means of cables much the same as his telephone. The subcommittee received testimony that promoters of both the types of systems were actively engaged in attempting to install such systems in California. The systems using the broadcast type of distribution had applied to the Federal Communications Commission for permission to make an installation at either Los Angeles, San Francisco or Fresno, or if possible all three. The systems using the closed circuit concept have been actively engaged in attempting to secure franchises from cities and counties in many of the more populated parts of the State.

As to the closed circuit type of operation the situation had become so acute that the League of California Cities had prepared a uniform franchise form for the use of cities or counties which did not have adequate staff to prepare the same. The subcommittee was informed that the Cities of San Francisco and Los Angeles were considering franchises with various closed circuit system promoters. Both types of systems will be described in this report in more detail under sections relating to the individual system, as presented to the subcommittee.

JERROLD ELECTRONICS CORPORATION

The Jerrold Electronics Corporation, advocating a closed circuit type of system, has engineered or installed some 500 community antenna systems, has supplied equipment to some 350 community antenna systems, has installed closed circuit systems in government housing projects, apartment houses and hospitals, and owns and operates nine community antenna systems, all of this activity has been nationwide. It is the contention of Jerrold that an open wire system, ie., one where the wire is not shielded, is susceptible to interference and the quality of the

picture is not as good as a picture received over a shielded cable. Jerrold uses a double shielded cable and has patented and developed radiation reduction bushings and other pieces of equipment necessary to hold radiation down in the system. It is the contention of Jerrold that its system will give the viewer the best possible picture.

The type of system that Jerrold will install will cost about $4,000 per mile, not counting the cost of the lines that would run from the main cable to the home subscribing to the service. This figure is for the cost of overhead installation only, the cost of underground installation being unknown at the time of the hearings, but was presumably much more. Jerrold, in its study of San Francisco, has projected a figure of $8.50 per month as the amount that it would charge the public for its service. This projection is based upon the cost of overhead service. Jerrold feels that it would realize a profit when it achieves 50 percent saturation in the area in which it will operate.

Jerrold engineered and installed the system at Bartlesville, Oklahoma. It is owned and operated by a group of motion picture exhibitors. In the Bartlesville operation there is a studio and a projector feeding the picture into the cable which is carried on poles belonging to the telephone company and the picture is delivered to the home television set by a connection to the main cable. The viewer has a choice of two channels. On the A channel a movie is run continuously from noon to midnight for two consecutive days. On the B channel there is special events and events of a local nature, which are run at the time the event takes place. The viewer is charged a flat $9.50 per month for this service and has no choice as to the program he will receive.

SKIATRON TV, INC.

The Skiatron operation is a closed circuit type of pay-to-see TV system. The Skiatron operation uses an IBM printed circuit card and through a magnifying glass reflected on a machine, a program is selected on the face of the card. A copy of the decoder is present with it and when a plunger is pushed on the side of the decoder box, it makes contact with the printed surface; it decodes the show and it also makes an impression which is then used by the subscriber mailing the decoder card to Skiatron's local offices for IBM automatic billing. If a particular show or event could not be shown or there was an interruption in transmission, an automatic credit would be given because that particular IBM machine would give the information to credit the subscriber.

Skiatron representatives estimate the cost of installation of its operations would be approximately $1,200 per mile. In the County of Los Angeles it estimates the cost of installation at $12,000,000, and it estimates that the cost of each home installation based upon those figures would be $14 or $14.50. The Skiatron operation would not use a shielded cable but would use a different design which it contends will deliver an excellent picture. Skiatron plans that the individual will be charged a small monthly payment in order to absorb some of the costs involved, for a short term, and in addition will also be given the added service of "Musac" for which the exact charge is not known but Skiatron estimates it will be from $2 to $4 per month.

Skiatron has a contract with the San Francisco Giants to televise its baseball games and is negotiating with the Los Angeles Dodgers.

TELEMETER CORPORATION

Telemeter is Paramount Pictures' pay TV system. It is a closed circuit type of system and delivers the picture to the home by means of wire or cable. Telemeter on the same wire or cable would deliver three separate channels. There would be channel A, B and C. There is a small electronic gadget that is plugged into the home television set and a box that sets on the top of the home television set. The box has a place in which to put coins and a device to register the price. When a program is about to begin, a barker says there is such and such a program about to begin on channel A, the price is so much, or if you prefer, we are showing such and such a program on channel B, the price is so much, etc. If the viewer selects channel A, immediately an electrical impulse from the telemeter station racks up the price on the home television coin box which is attached to the set and the price of the particular program is shown. The viewer then puts his money in the box and can see the program. There is a credit storage so if the viewer does not have the correct change, he can deposit more than the program requires and will be given credit for the surplus. When the money is collected, an electronic tape is removed which indicates the programs for which money has been deposited, the money is then divided among the people who own the programs.

Telemeter does not intend that it will actually operate the various installations but would franchise or license the use of their equipment to various exhibitors throughout the Country. In order to enable the franchise holders to establish their businesses, Telemeter would serve as a national booking agency. Because it does not intend to operate the system they do not have estimates relative to the cost of individual programing.

ZENITH RADIO CORPORATION

The Zenith Radio Corporation's operation is carried over the airways the same as television programing generally. However, the signal sent out by Zenith is scrambled and a decoder is needed at the home television set. Zenith would use an unused channel or affiliate with a nonnetwork station to broadcast their programs. The Zenith operation in the home would consist of a small decoder box that goes on the back of the home television set. The decoder has five dials on it with digits from one to nine. To decode the program, both the picture and the sound, the five dials must be set to the right code number, about the same as dialing a phone number. As soon as the five dials are set correctly, the picture and the sound clears up. The key to the operation is a card which is mailed to the subscriber which can contain a whole month of programing. The programs are itemized in a program booklet giving the program, the number and the price. If the viewer wants to watch any particular program, he erases the card next to the number of the program he wishes to see, the five digit code number appears and the viewer then uses the code number to adjust his set. The card becomes the billing. It is printed, mailed out, returned and read all by automatic equipment and the subscriber is billed accordingly.

The Zenith operation is under the exclusive control of the Federal Communications Commission.

PROGRAMING, CHARGES AND ADVERTISING

It is the contention of all proponents of pay-to-see TV, that this media will bring to the public programs and events they are not presently receiving, and which they want to see and should see. It is argued that this media will bring first-run motion pictures into the home at less cost than going to the theater. Because of cost, many of the more important sporting events will be removed from free television and this media will allow the home viewer to continue to be able to see them. It is also contended that it will be possible to show programs that could not possibly be shown on free television, such as opera, ballet and Broadway plays.

As to charges that the subscriber will have to pay, none of the proponents of pay-to-see TV are definite about the amount that will be charged. The flat rate system approximates $8 to $10 per month. The program fee systems would charge on the basis of what the program cost and in essence what the traffic would bear, subject to restraint of competition.

In the franchise being studied by the City of San Francisco there is a prohibition against advertising. It was realized there would always be the possibility of involuntary advertising because of background. However, voluntary advertising would be prohibited. It was freely admitted that the pressures to use advertising in this media would become terrific and where there is a strong demand, that demand is often satisfied.

POSSIBLE EFFECT OF PAY-TO-SEE TV ON FREE TELEVISION

The proponents of pay-to-see TV contend that they are only interested in bringing to the viewer programs he is not presently receiving and have no intention of using programs that are presently being seen without charge. However, this media would be highly competitive and would be soliciting the greatest audience they could obtain. They would have to program to hit the peak hours of viewing and so would be presenting their programs at the same time that the more important free television programs are being seen When it is realized that there would be much more money to buy talent in pay-to-see TV than is available in free television, the threat is not an empty one that some free programs will be replaced with the same talent appearing on toll television. Also, there is the possibility that there will be a toll charge for a particular area and the same program would be sponsored in another area without charge.

POSSIBLE STATE REGULATION OF PAY-TO-SEE TELEVISION SYSTEMS

Under existing state law there is no authority to regulate closed circuit television systems. If the pay-to-see TV systems contract with the telephone company, either to transmit the programs or to lease pole rights for installation of cables, such contracts would have to be approved by the California Public Utilities Commission. Commission ap-

proval would depend upon the extent, if any, that the contracts impaired the existing telephone company system, taking into consideration the necessity of future expansion. In view of the information received by the subcommittee, it would appear that it is practically impossible that any closed circuit television system can operate without first reaching an agreement with the telephone company. The possible profits from the operation of a closed circuit television system are enormous; however, cost-wise the capital outlay, with the exception of switching facilities, would be very nearly that which would be required to duplicate the existing telephone system. With the exception of a few isolated incidences, there is no real proof that the public would generally subscribe to a service for which they would have to pay when they are receiving a similar service for nothing. Therefore, it is almost a certainty that when pay-to-see TV is installed, it will be with the co-operation of the telephone company. With the exception of impairment of existing or future service, the California Public Utilities Commission would have no control over any rates that would be charged, or over the service to be offered. Unless the corporations involved seek to sell securities in this State, the California Corporations Commissioner would have no control over this type of operation. (See Exhibits A and B.)

POSITION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY RELATIVE TO PAY-TO-SEE TELEVISION

At the subcommittee hearing in San Francisco on November 21 and 22, 1957, the Pacific Telephone and Telegraph's Company representatives presented to the subcommittee a formal statement as to the company's position relative to pay-to-see TV at that time. The statement was as follows:

> "Closed circuit TV is not new. For several years telephone companies have furnished channels for closed circuit TV as a part of their public undertaking and at regularly established charges. Over these channels, prizefights have been transmitted from ringside to theaters and other gathering places throughout the Country and businesses have conducted sales and other meetings. Recently in Bartlesville, Oklahoma, the telephone company has supplied channels for local transmission of pictures to homes.
>
> "Until recently, the requirements for closed circuit TV have been quite limited, and have been filled by existing facilities or by modest additions to telephone plants.
>
> "Now, however, a number of ambitious plans have been broached for furnishing closed circuit TV programs to residences throughout large metropolitan areas, and the telephone companies have been approached to provide channels for these systems or to permit their sponsors to place cables on telephone company poles and in their underground ducts. These plans pose problems of a magnitude not heretofore presented.
>
> "The telephone companies are fully aware of their responsibility as public utilities to meet the public demands for communications facilities. But the extent and character of the public demand for closed circuit pay TV facilities have not been demonstrated. So

far, the requests have come from several companies which are interested in creating public demand, and only time will tell whether their efforts will succeed.

"The provision of local channels needed for closed circuit TV could involve construction of facilities costing many millions of dollars. Quite clearly, the telephone companies cannot invest large amounts in anticipation of a public demand which has not been proven and may not exist without adequate guarantees, for to do so would place other essential communications services at risk.

"On the other hand it may be impractical in most communities to construct a new distribution plant of wires, poles and underground conduits, duplicating the telephone companies' existing facilities just for closed circuit TV.

"Therefore, the telephone company does not wish arbitrarily to withold its facilities from this use, for to do so might foreclose all efforts to find out whether the public really wants closed circuit home TV.

The problems of providing such facilities even on a limited basis are many and diverse—especially in the larger cities. For example, essential telephone service reasons make it impractical to allow others to place and maintain cables in the telephone companies' underground ducts, or to construct new lines on many already heavily burdened main aerial telephone cable routes. Nor can facilities for closed circuit TV be provided to anyone to the exclusion of others.

"For these reasons the telephone company must, for the present, consider requests for closed circuit TV facilities on a case by case basis. Each request must be examined carefully in the light of the considerations outlined above to determine the feasibility of affording the necessary facilities for closed circuit home TV either by furnishing telephone company channels, or providing space on or in the telephone company's existing distribution plant, or through a combination of each."

FIELD OF FRANCHISE REGULATION

There appears to be two broad fields of franchise regulation. One area of possible regulation is the regulation of franchises issued by established companies. Possible abuses in this field were explored by a congressional study two years ago. As the result of these congressional hearings, General Motors Corporation and other automobile manufacturers have voluntarily modified many of their dealer franchise agreements. This is a very large subject and any action in this field should be delayed until further studies can be made because any legislation would necessarily disrupt established practices in this field. Another area of possible regulation is the issuance of franchises or dealerships by concerns which are in the organizational or promotional stage.

FRANCHISES FOR SALE BY PROMOTIONAL CONCERNS

A franchise, dealership or license offered by a concern which is not yet established in business offers many more opportunities for fraud than does a franchise, dealership or license offered by an established

concern. A franchise, dealership or license offered by a concern not yet in existence will be worthless unless that concern is able to successfully enter into commercial operations and continue such commercial operations on a permanent basis. A small businessman, for example, who is offered a dealership by a company which is not in existence may be able to calculate what the value of such dealership is worth to him in the event the company is able to manufacture and sell at competitive prices. Consequently, he may be induced to pay a substantial sum for such a dealership and yet the company may be organized so inadequately that it never gets into commercial operation and the dealership becomes worthless.

RAISING OF CAPITAL BY NEW CONCERNS BY SALES OF FRANCHISES

When a new concern is launched, the promoters can raise capital for it either by using their own funds or by getting funds from others. They can obtain funds from others either by the sale of securities or by the sale of franchises or dealerships, in the company to be formed. There have been a number of fraudulent transactions arising out of the sales of franchises which purport to grant the purchaser an exclusive agency to sell and distribute some product in a designated area of this State. In many instances the seller of the franchise had no manufacturing facilities to produce the product and was not adequately financed to do so. The franchise contracts are artfully drawn and generally contain a provision by which the seller was only obligated to deliver the product when and if it was produced The Tucker Corporation, the Bobbi-Kar Company of San Diego and the Davis Car Company in Los Angeles are examples of this type of franchise. In each of these companies, so-called franchises to sell the product in certain areas of California were sold at a time when the seller was not producing the product, was not financially able to do so, and in fact never produced the product in commercial quantities. The franchises were sold for thousands of dollars each and resulted in a total loss to the purchasers.

REGULATION OF SALES OF BUSINESS FRANCHISES

As the sale of a franchise is often a means of raising capital for an enterprise, and to that extent takes on the color of the sale of securities, it would appear that the sale of such rights might, in the interest of protecting the public, be placed within the regulatory authority of the Commissioner of Corporations This is particularly so with respect to franchises that are to be issued by new companies The analysis which the Commissioner of Corporations' Office makes to determine whether or not a new corporation shall be permittted to issue securities is similar to the analysis that should be required in the event a corporation or company or individual seeks to issue franchises. The increase in staff to cover the additional work would not be very substantial. In some cases the corporation would have already been investigated relative to its application for permission to issue securities. The estimated cost of increase of staff would be defrayed by the nominal filing fee for every corporation, company or individual which proposes to issue franchises.

FRANCHISES COMPARED TO SECURITIES

A franchise is ordinarily not considered a security, and, the term "security" has a definite meaning understood throughout the United States. It would be unwise to expand the definition of the term "security," as used in the Corporate Securities Act, to include franchises. Such expansion of the term security would be confusing. A better way to handle the problem and in a manner more easily understood by the public would be to add a section to the California Corporations Code to expressly regulate the sale of business franchises. (See Exhibits C and D.)

FINDINGS OF THE SUBCOMMITTEE

As the result of the hearings in Los Angeles on September 10, 1957, and in San Francisco on November 21 and 22, 1957, the subcommittee determined the following facts:

1. There is a definite movement afoot to promote the franchise and installation of pay-to-see TV systems in this State. Cities and counties are negotiating franchises for that purpose and contracts have been made for programing
2. That the financial feasibility of the installation of a closed circuit TV system depends upon the participation of telephone companies and the only area of control under present law is that existing and future telephone service shall not be impaired.
3. That the closed circuit systems studied by the subcommittee were mutually exclusive, and if any one system was installed in an area, the cost of an additional system would be prohibitive to the subscriber making him a captive of the first system for which he subscribed.
4. That the public has a definite interest in retaining free television and most certainly should not be charged for a program in an area that is being shown for free in some other area.
5. That until closed circuit systems for toll TV are in commercial operation, it will be extremely difficult to determine exact legislation. But at that time the problem should be restudied as being a proper area of state regulation.
6. That the sale of business franchises, licenses and dealerships is a field where fraud can and does occur. That such sales are sometimes used to evade the Corporate Securities Act.
7. That the Corporation Commissioner's office, with proper legislation, could regulate the sale of business franchises, licenses and dealerships at no additional cost to the State as fees for permits would cover the cost of administration.

RECOMMENDATIONS OF THE SUBCOMMITTEE

The subcommittee recommends the following:

1. That legislation be adopted prohibiting the charging of money for any television program in the State of California that is being shown in any part of this State or in any other state without charge.
2. That the problem of pay-to-see TV be restudied in the interim after the 1959 Regular Session of the California Legislature.
3. That Division 5 be added to Title 4 of the California Corporations Code relating to the regulation of the sale of business franchises. (See Exhibit D.)

EXHIBIT A

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
LOS ANGELES, CALIFORNIA, September 5, 1957

HONORABLE LOUIS FRANCIS
San Mateo, California

"PAY TV" SYSTEMS—NO. 349

DEAR MR. FRANCIS: You have asked that we outline the present law relating to the power of the State and local governments to require licenses or franchises of "pay-as-you-see" television systems.

Whether or not the state or local governments have any power in this connection—or the scope of such power if extant—would depend upon the technical methods employed in the operation of a given "pay T. V." system. In the absence of these factual details, your question may not be answered comprehensively. However, we will indicate in the following discussion the legal situation generally by contrasting two methods of "pay T. V." operation which we understand are under consideration at this time.

The first method calls for television transmission in the conventional manner, except that the signal is coded so as to be intelligible only to specially adapted receivers. These transmissions are "radio communication" for purposes of the Communication Act of 1934 (47 U. S. C 151-609) and it has been held that Congress has by that act fully occupied the field as to regulation of television in this category, to the exclusion of state action (*Allen B. DuMont Laboratories* v. *Carrol,* 184 Fed. 2d 153, certiorari denied 340 U. S. 929).

A second method expected to be utilized by "pay T. V." systems employs coaxial cables to carry the television signals into the homes of subscribers. Systems using this method and operating exclusively intrastate would appear to be subject to state and local control in the interests of the public health, welfare, safety, or convenience. However, the Supreme Court of California has held in a recent case that a similar enterprise—a corporation operating a "community television antenna" which carried amplified signals by coaxial cables to the sets of individual subscribers—was not within the definition of "public utility" under the existing law which marks out the jurisdiction of the Public Utilities Commission (*Television Transmission, Inc.* v. *P. U. C.,* 47 Cal. 2d 82).

The possibility is noted that a "pay T. V." system using this second method of operation may be required to apply for local municipal franchises before undertaking to construct the necessary network of coaxial cables.

With respect to chartered cities, it has been held that the power to grant a franchise for the use of city streets for such secondary purposes as telegraph and telephone poles, wires, pipes, and conduits is a matter of municipal concern governed by provisions of the city charter (*San Diego* v. *Southern California Telephone Co.,* (92 Cal. App. 2d 793). If the procedure for granting such a franchise is not specified in the charter, the so-called Broughton Act (Secs. 6001-6017, P. U. C.) would be applicable (*San Diego* v. *Southern California Telephone Co.,* 42 Cal. 2d 110).

The authority of a general law city to grant franchises for such a use of the city streets is not clear. The Broughton Act has been held not to confer any authority on cities to grant franchises for the use of city streets but only to prescribe the manner in which authorized franchises may be granted (*San Diego* v. *Southern California Telephone Co.*, 42 Cal. 2d 110). However, among the purposes for which general law cities are empowered to grant franchises is that for the construction of "public utilities it deems proper" (Sec. 39732, Gov. C.). It is possible that "pay T. V." systems would be held to be public utilities for this purpose because of their nature as public service enterprises, despite the fact that they are not public utilities as that term is defined for purposes of jurisdiction of the Public Utilities Commission.

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By ALEX B. YAKUTIS, Deputy

EXHIBIT B

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, October 25, 1957

HONORABLE LOUIS FRANCIS
San Mateo, California

"PAY" TELEVISION—NO. 508

DEAR MR. FRANCIS: You have asked us several questions concerning "pay-as-you-see television" systems. Your questions refer to the so-called "wired pay TV" system in which a central studio is linked with television receivers in the subscriber's homes by coaxial cable or other types of lines.

QUESTION NO. 1

Does the Corporations Commissioner have any control over an out-of-State corporation which proposes to do a "pay TV" business in California? What can he do to regulate the operation of such corporations to protect the public from corporations which have insufficient finances to carry out their commitments to their customers?

OPINION NO. 1

The Corporations Commissioner would have certain regulatory powers if the corporation were to issue or sell securities in this State.

ANALYSIS NO. 1

The issuance and sale of securities in this State by domestic and foreign corporations is governed by the Corporate Securities Law (commencing at Sec. 25000, Corp. C.). Under this law no company, unless otherwise exempted, may sell a security of its own issue, offer to sell, negotiate to sell, or take subscriptions for any such security, until it has first applied for and secured from the Corporations Commissioner a permit authorizing it so to do (Sec. 25500, Corp. C.). "Security" is defined to include stocks, bonds and other evidences of indebtedness, security guarantees, and certificates of deposit for security (Sec. 25008, Corp. C.). Thus, unless the corporation in question proposes to sell securities of its own issue, its activities would not fall within the scope

of the Corporation Commissioner's powers under the Corporate Security Law.

From the question asked, it would appear that the corporation would be engaged only in selling its services. It is clear that an agreement to render such services for compensation would not constitute a security within the meaning of the Corporate Securities Law (*People* v. *Syde* (1951), 37 Cal. 2d 765).

We know of no other law which might give the Corporations Commissioner regulatory powers over such a corporation.

QUESTION NO. 2

Can a public utility, such as a telephone company, use its lines or poles and similar equipment, either to set up a subscription television service of its own or to allow someone else to set up such service, without being subject to regulation as a utility by the Public Utilities Commission in that respect?

OPINION NO. 2

The fact that a public utility company uses its public utility equipment to set up a subscription television service or permits someone else to use its facilities for such a purpose would not permit the commission to regulate the subscription television service so established as a public utility service. However, the commission would have jurisdiction to prevent any impairment of the company's public utility services through the establishment of a subscription television system by the public utility itself or through the use of the public utility's services for that purpose by another.

ANALYSIS NO. 2

We will first discuss the situation where a public utility, such as a telephone company, uses its lines or poles to establish its own subscription television system.

It seems clear that a subscription television system does not constitute a public utility for the purposes of the jurisdiction of the Public Utility Commission under the Public Utilities Act. The Supreme Court of California recently held that an enterprise similar to a subscription television system—namely, a corporation operating a "community television antenna" which carried amplified signals by coaxial cables to the sets of individual subscribers, was not a public utility as that term is defined for purposes of the jurisdiction of the Public Utilities Commission under the existing law (*Television Transmission, Inc.* v. *Public Utilities Commission* (1956), 47 Cal. 2d 82).

Thus, the question that is presented is what jurisdiction does the commission have over the operation by a public utility of a nonpublic utility enterprise. It seems clear that the commission would have no direct jurisdiction over the public utility's operation of such an enterprise in the sense that it could regulate such an operation to the same extent that it does the public utility services of the particular company.

Although the Public Utilities Commission has broad power over the public utilities, these powers are not unlimited. Thus, the California Supreme Court has held that the commission had no jurisdiction to order a telephone and telegraph company to cancel its service contract

with its parent company (*Pacific Telephone and Telegraph Co.* v. *Public Utilities Commission* (1950), 34 Cal. 2d 822). The court pointed out that there are many activities of a public utility over which the commission has no direct jurisdiction (34 Cal. 2d at p. 829).

It is generally held that the fact that a business is a public utility does not make every service performed by it a public service with the consequent duties and burdens, but it may act in a private capacity and in so doing is subject to the same rules as a private person (73 C. J. S. 1003). For example, the Arkansas Supreme Court held that the state's public service commission had no authority to prohibit a public utility corporation from selling and installing air-conditioning equipment (*Associated Mechanical Contractors* v. *Arkansas Louisiana Gas Co.* (1955), 283 S. W. 2d 123). In our opinion, the California Supreme Court would reach the same conclusion with respect to this State's Public Utility Act. Thus, the commission would not appear to have power to regulate the rates which the telephone company could charge for its subscription television service, assuming that its telephone operations and television subscription service are not intermingled, but the commission would have jurisdiction to prevent any impairment of the company's public utility services by the company's engaging in other operations For example, the commission could prohibit the public utility company from using its public utility poles or wires in connection with a subscription television service if it finds that such a joint use would impair the company's public utility services

The same considerations would govern a situation in which the telephone company authorizes someone else to use its poles and lines in connection with a subscription television service, with the added factor that a telephone company could not "sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its * * * line * * * system, or other property necessary or useful in the performance of its duties to the public" without first having secured from the commission an order authorizing it so to do (Sec. 851, P. U C.).

QUESTION NO. 3

If "A" installs a coaxial cable on its own right-of-way, could a public utility such as a telephone company acquire the same and lease it back to the installer or a third party without having the transaction and subsequent operation subject to regulation by the Public Utilities Commission?

OPINION NO. 3

The consent of the commission would not appear to be necessary for the acquisition by the public utility of such property and would not appear to be necessary for the leasing of such property if it can be shown that the property is neither necessary nor useful in the performance of the utility's public utility functions

ANALYSIS NO. 3

Such a transaction would first involve a purchase by the public utility of the right-of-way and coaxial cable. There is no specific grant of authority to the Public Utilities Commission of the power to regulate the purchases of property or equipment. In *Pacific Telephone and*

Telegraph Co. v. *Public Utilities Commission* (1950), 34 Cal. 2d 822, 827, the court held that the commission had no power to prescribe the terms on which a utility may enter into contracts necessary for the conduct of its business. The commission would not appear to have power to prohibit such an acquisition, particularly if the property so acquired is not to be used in the public utility operations of the company.

Under the facts stated, the utility then would lease the right-of-way and cable back to the original seller or to a third party. The requirement of approval by the Public Utilities Commission of a transfer or lease of public utility property applies only to property of the utility which is "necessary or useful in the performance of its duties to the public" (Sec. 851, P. U. C.). The California courts have held that this provision makes the consent of the commission necessary for a transfer by a public utility of its property which has been dedicated to a public use (*Crum* v. *Mt. Shasta Power Corp.* (1934), 220 Cal. 295, 310; *City of Oakland* v. *El Dorado Terminal Co.* (1940), 41 Cal. App. 3d 320, 328). The requirement of commission approval appears to cover not only property actually used by the public utility in its public utility functions, but also property which is useful in the performance of the utility's public utility functions. Thus, if it could be shown that the coaxial cable and right-of-way acquired by the public utility is neither necessary nor useful to the utility in the performance of its public utility functions, the utility would not need the approval of the commission for a lease of such property.

QUESTION NO. 4

Could a telephone company sell "attachment rights," i.e., the right to attach something to existing poles or lines necessary for a subscription television system, without being subject to regulation by the Public Utilities Commission in that respect?

OPINION NO. 4

Such a sale would require the prior approval of the commission if the rights sold constitute property necessary or useful in the performance of the telephone company's public utility functions.

ANALYSIS NO. 4

As previously indicated, a public utility may not sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its line, plant, system, or other property necessary or useful in the performance of its duties to the public without prior approval of the Public Utilities Commission (Sec. 851, P. U. C.).

The sale of "attachment rights" with respect to existing poles or lines would appear to constitute property within the scope of Section 851. The prior approval of the commission to a sale of such rights would be necessary under the section if such rights constitute property necessary or useful in the performance of the telephone company's public utility functions.

QUESTION NO. 5

If the telephone company or other public utility installs a coaxial cable and other equipment for a subscription television system and then leases it to another party, would the utility be subject to regulation by the Public Utilities Commission in that aspect of its business?

OPINION AND ANALYSIS NO. 5

As indicated in our answer to Question No. 3, whether or not such a lease would be subject to the approval of the commission would depend upon whether the property is necessary or useful to the utility in the performance of its public utility functions,

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By OWEN K. KUNS, Deputy

EXHIBIT C

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, September 6, 1957

HONORABLE LOUIS FRANCIS
San Mateo, California

BUSINESS FRANCHISES—NO. 315

DEAR MR. FRANCIS: You have asked to what extent the Legislature has the power to regulate business franchises. We understand "business franchises" to mean rights relating to the use of a particular business name, process, formula, method of procedure or technique.

We believe that the point of departure in considering this question is the proposition that the Legislature is vested with the whole of the legislative power of the State and may deal with any subject within the scope of civil government, except so far as restrained by the Constitution, and is the sole tribunal to determine as well the expediency as the details of all legislation within its power (*In re Madera Irrigation District*, 92 Cal. 296). Concerning constitutional limitations on this power—the police power—the United States Constitution forbids a state to pass laws impairing the obligation of contracts (U.S. Const., Art. 1, Sec. 10, Ch. 1), or to deprive persons of property without due process of law (U. S. Const., Amdt. 14). However, "It is settled that neither the 'contract' clause nor the 'due process' clause has the effect of overriding the power of the State to establish all regulations that are reasonably necessary to secure the health, safety, good order, comfort, or general welfare of the community . . . and all contract and property rights are held subject to its fair exercise." (*Atlantic Coast Line R. Co.* v. *Goldsboro*, 232 U. S. 548, 558.)

Among other things, the police power may be exercised to regulate business to prohibit fraud, deceit, and imposition (*Gregory* v. *Hecke*, 73 Cal. App. 268), and moreover a very wide discretion as to what is needful or proper for this purpose is necessarily committed to the legislative body (*In re Porterville*, 28 Cal. 2d 91).

However, it should be noted that the Legislature may not, under the guise of exercising the police power, impose onerous or unreasonable

burdens or restrictions on lawful and useful occupations or businesses which are not inherently, or because of the manner in which they are carried on, injurious to persons or property, or to the public health, convenience, safety, or morals (*Frost* v. *City of Los Angeles,* 181 Cal. 22; *In re Monrovia Evening Post,* 199 Cal. 263; *State Board of Dry Cleaners* v. *Thrifty-D-Lux Cleaners,* 40 Cal. 2d 436).

Thus, in the final analysis, the validity of any legislative attempt to regulate business franchises will depend upon both the type of business franchise proposed to be regulated and the necessity and reasonableness of the proposed regulation.

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By ALEX B. YAKUTIS, Deputy

EXHIBIT D

An act to add Division 5 to Title 4 (commencing with Section 30000) of the Corporations Code, relating to the sale of business franchises.

The people of the State of California do enact as follows:

SECTION 1. Division 5 is added to Title 4 of the Corporations Code, to read:

DIVISION 5. BUSINESS FRANCHISES

30000. A business franchise within the meaning of this division includes every contract or agreement which purports to license or grant the right to use a particular business name, process, formula, method of procedure or technique or to market a particular product or article, device, machine or equipment in any geographic area, exclusively or nonexclusively.

30001. No company shall sell a business franchise of its own issue until it has first applied for and secured from the Commissioner of Corporations a permit authorizing it so to do

30002. An application for a permit to sell a business franchise shall be in writing, shall be certified under penalty of perjury and shall contain the applicable information required by Section 25502 of this code.

30003. The fee for filing an application shall be based on the value of the consideration received or to be received for the sale of a business franchise in accordance with the fee schedule contained in Section 26003 of this code.

30004. If the Commissioner of Corporations finds that the proposed plan of business and the proposed sale of business franchises are fair, just and equitable, that the applicant intends to transact its business fairly and honestly, and that the business franchises that it proposes to sell and the method to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing it to sell such franchises, as therein provided, in this State, on such terms and for such considerations and subject to such conditions as the commissioner may provide in the permit, otherwise, he shall deny the application and refuse the permit, and notify the applicant in writing of his decision.

30005. Whenever in the opinion of the commissioner the sale of a business franchise would be in violation of this division or that the further sale of business franchises would be unfair, unjust, or inequitable to the purchaser thereof, the commissioner may order the company to desist and refrain from the sale of business franchises. If, after such an order is made, a request for a hearing is filed in writing and hearing is not held within 60 days thereafter, the order is rescinded.

30006. The commissioner shall have all of the powers of examination, audit, and investigation with reference to the companies selling or offering for sale business franchises that are provided in Title 4, Division 2 of this code.

30007. The commissioner may establish such rules and regulations as are reasonable or necessary to carry out the purposes and provisions of this division.

30008. Unless the provision or context otherwise requires, the definitions and general provisions set forth in Chapter 1, Division 1, Title 4, of this code govern the construction of this division.

30009. Every person violating this division is guilty of a public offense punishable by imprisonment in a state prison not exceeding five years, or in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

30010. All fees collected under this division shall be deposited in the General Fund and the administration of this division shall be supported from the General Fund.

30011. The provisions of this division do not apply to any company that it or its predecessor has been engaged in the business to which the franchise related continuously for the three years preceding the offering of the franchises.

30012. The commissioner by rule or regulation or order may exempt from the provisions of this division any company or class of companies if he finds that such company or class of companies is not in the promotional stage and that the application of this division is not necessary for the protection of the public.

REPORT OF THE SUBCOMMITTEE ON THE RECODIFICATION OF THE PUBLIC UTILITIES CODE

TO

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

MEMBERS OF SUBCOMMITTEE

REX M CUNNINGHAM, *Chairman*

MONTIVEL A. BURKE
SETH J. JOHNSON
LOUIS FRANCIS
WILLIAM F. MARSH

ROBERT S. THURN, *Consultant*
NORMA WAGGERSHAUSER, *Secretary*

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PERSONS APPEARING AND TESTIFYING BEFORE THE SUBCOMMITTEE

ALAN G. CAMPBELL, Los Angeles City Attorney's Office
R. B. CASSIDY, California Public Utilities Commission
GEOFFREY COOK, Southern California Edison Company
BRUCE R. GEERNAERT, San Francisco
RALPH B. HARLAN, California Manufacturer's Association
CARL M. HOLMES, Pacific Telephone and Telegraph Company
PAUL M. HYNER, Gladding McBean and Company
OWEN KUNS, Deputy Legislative Counsel
THEODORE MERRILL, Watson Communications Systems
ARLO D. POE, California Trucking Association
HAROLD RAINES, East Bay Municipal Utility District
BERT TRASK, California Trucking Association

Hearings were held by the subcommittee on the Recodification of the Public Utilities Code of the Assembly Interim Committee on Public Utilities and Corporations on January 15, 1958 in Room 4202 of the State Capitol, Sacramento and on November 20, 1958 in Room 709 of the State Building in Los Angeles.

SCOPE OF THE STUDY BY THE SUBCOMMITTEE

It was felt by the members of the subcommittee that recodification as well as codification of a code did not contemplate substantive statutory changes but involved consideration of such matters as the elimination of provisions of the code that may have become obsolete, the restating of existing law in clearer form and the correction of errors in the existing statutes.

STUDY OF SECTIONS 461, 495, 558, 703, 766, 7903, 7904, 7951 AND 7952 OF THE CALIFORNIA PUBLIC UTILITIES CODE

Relative to Public Utilities Code Sections 461, 495, 558, 703, 766, 7903, 7904, 7951 and 7952, at the hearing on January 15, 1958 in Sacramento, representatives of the Pacific Telephone and Telegraph Company, in answer to requests of the subcommittee staff, submitted to the subcommittee proposed changes for the above sections. The proposed changes were for the purpose of modernizing the language of those sections. At the same time the proposed changes were also given to Mr. R. B. Cassidy of the California Public Utilities Commission, with the understanding that Mr. Cassidy would subsequently make a recommendation to the subcommittee as to whether or not the proposed changes would result in a substantive change in law. At the hearing in Los Angeles on November 20, 1958, the recommendations of Mr. Cassidy were placed in the record. It was the opinion of Mr. Cassidy that the changes would result in a substantive change in law. Prior to the hearing of November 20, 1958, representatives of the Pacific Telephone and Telegraph Company had received a copy of Mr. Cassidy's opinion and at the hearing of November 20, 1958 requested that their recommended changes be withdrawn so as to eliminate any possibility of confusion.

STUDY OF SECTION 816.5 OF THE CALIFORNIA PUBLIC UTILITIES CODE

Section 816.5 of the Public Utilities Code contains the following language: "Nothing contained in this article shall be construed to require a highway common carrier or a petroleum irregular route carrier to secure from the commission authority to execute any conditional sales contract for the purchase of motor vehicle equipment or any chattel mortgage on motor vehicle equipment securing the payment of all or any part of the purchase price of such motor vehicle equipment." This has served a very beneficial purpose It has avoided an unnecessary formality on the part of the carriers who find it necessary to purchase equipment on the installment plan. It has relieved them of the necessity of going to the commission with a formal application for approval which would be granted as a matter of course.

Subsequently, in Section 851 of the California Public Utilities Code there is language which would create an inconsistency with Section 816.5 in that it prohibits any public utility, which would include a highway common carrier, from mortgaging or otherwise encumbering any property necessary or useful in the performance of its duties to the public without commission approval.

As Section 816.5 was introduced and enacted, the reference was all-inclusive and would have eliminated any requirements under any sections in the Public Utilities Code relating to commission approval of conditional sales contracts or chattel mortgages However, in the shuffle of the closing days of the 1951 Session, the draftsman or codifier used the word article rather than chapter and the inconsistency arose.

It was contended that where the word "article" was used in the sections, the words "Articles 5 and 6" should be used so as to clearly express the intention of the legislature.

STUDY OF CITY CARRIERS' ACT SECTIONS 3901 TO 4302, INCLUSIVE, OF THE CALIFORNIA PUBLIC UTILITIES CODE

The City Carriers' Act is an archaic piece of legislation that may have had some justification in 1935, when it was enacted, but really serves no purpose today insofar as it deals with a separable group of carriers. City carriers are defined as those operating wholly within the exterior limits of an incorporated city. With the development of truck transportation and the expansion of metropolitan areas it is impossible for the truck operator to carry on a trucking operation and stay within the boundary of one city. Consequently, there are no true city carriers today.

STUDY OF SECTION 1902(b) OF THE CALIFORNIA PUBLIC UTILITIES CODE

It has been recommended to the subcommittee that Section 1902(b) be changed by changing the number contained therein from 815 to 816. This is a technical, noncontroversial amendment, there being no section numbered 815 in the code. This error occurred because at one stage of the preliminary drafting of the 1951 codification it was proposed that there was to be a definitional section to be numbered 815. However,

later it was decided to eliminate Section 815 and inadvertently Section 1902(b) was not changed.

STUDY OF SECTIONS 10001 TO 29757, INCLUSIVE, OF THE CALIFORNIA PUBLIC UTILITIES CODE

The present Public Utilities Code consists of nine divisions. The first four divisions relate primarily to privately owned public utilities and related businesses. The second five divisions, commencing with Section 10001, relate solely to public agencies furnishing services of a utility nature to the public in their districts. Under the Constitution of the State of California, the California Public Utilities Commission's jurisdiction extends only to the regulation of privately owned public utilities. The basic law governing the private utilities' corporations is not found solely within the Public Utilities Code but much of such law is contained in the Corporations Code. However, in the Public Utilities Code, which was to codify the law relating to the regulation of private public utilities, there is now the entire basic law relating to some public agencies including not only the laws relating to the operation of services by such agencies, but also the maner in which the agency is created, their taxing powers, the election of their governing bodies, their bond issues, annexations and similar political and governmental matters.

It was contended by persons appearing before the subcommittee that the establishment of a public services code would result in the bringing together in this code much of the law relating to public agencies which is now scattered throughout a number of different codes and in the general statutes. Such a result would be helpful to the members of the Legislature, to the public, to the agencies involved and to the lawyers who must now pursue legal research through a multiplicity of volumes.

The time appears to be right for the formation of such a code before the situation becomes more complicated. The Public Utilities Code was created in the 1951 Session. At that session there was also included in the code the Muncipal Utility District Act. In 1953 the Public Utility District Act and the Airport District Act were added to the code. In 1955 the Alameda-Contra Costa Transit District Act was added and in 1957 there was further added the San rancisco Bay Area Rapid Transit District Act. It would appear that the longer a solution to this problem is delayed, the more difficult the enactment of a solution may become.

In the proposed new code there has not been any substantive changes whatsoever. The provisions of those sections of the Public Utilities Code that would become a part of the Public Services Code will be transferred bodily but will receive a new number as to the individual sections. The change in number showing the Public Utilities Code number and the new Public Services Code number are contained in Exhibit A.

Since the hearing in Los Angeles on November 20, 1958, there have been objections voiced as to the term Public Services Code as being too broad a title. All parties agree that the title of Public District Code would be a more proper nomenclature and this amendment is anticipated.

SUBCOMMITTEE FINDINGS

1. That Section 816.5 of the Public Utilities Code does not truthfully express the intention of the Legislature in its present form and results in an inconsistency that should be removed.

2. That the City Carriers' Act, now contained in the Public Utilities Code, is no longer used or needed.

3. That there is an obvious error in the language of Section 1902(b) of the Public Utilities Code.

4. That the public agencies presently regulated by Sections 10001 to 29757 of the Public Utilities Code are not public utilities as defined in the Constitution or the Public Utilities Code but are agencies giving a service of a similar nature and that such agencies and the public as a whole will be benefited by transferring these sections to a new code.

RECOMMENDATIONS OF THE SUBCOMMITTEE

1. That Section 816.5 of the Public Utilities Code be amended so as to make the section include Articles 5 and 6.

2. That the City Carriers' Act be repealed.

3. That Section 1902(b) of the Public Utilities Code be amended so that the section is no longer in error.

4. That a public districts code be enacted.

EXHIBIT A

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
10001	100	11536	1030	11887	1786
10002	101	11561	1300	11888	1787
10003	102	11562	1301	11889	1788
10004	103	11581	1325	11890	1789
10005	104	11582	1326	11891	1790
10006	105	11583	1327	11892	1791
10051	125	11611	1350	11907	1815
10052	126	11612	1351	11908	1816
10053	127	11613	1352	11909	1817
10054	128	11614	1353	11910	1818
10055	129	11641	1375	11911	1819
10056	130	11642	1376	11912	1820
10057	131	11643	1377	11926	1840
10058	132	11644	1378	11927	1841
10059	133	11645	1379	11928	1842
10060	134	11646	1380	11929	1843
10101	155	11647	1381	11930	1844
10102	156	11648	1382	11931	1845
10103	157	11649	1383	11932	1846
10104	158	11650	1384	11933	1847
10105	159	11651	1385	11934	1848
10106	160	11652	1386	11935	1849
10107	161	11653	1387	11936	1850
10151	185	11654	1388	11937	1851
10152	186	11655	1389	11938	1852
10153	187	11656	1390	11939	1853
10154	188	11681	1410	11940	1854
10155	189	11701	1430	11941	1855
10201	210	11801	1700	11942	1856
10202	211	11821	1720	12051	2100
10203	212	11822	1721	12052	2101
10204	213	11823	1722	12053	2102
10205	214	11824	1723	12054	2103
10206	215	11825	1724	12055	2104
10207	216	11826	1725	12101	2125
10208	217	11827	1726	12102	2126
10209	218	11828	1727	12103	2127
10210	219	11829	1728	12104	2128
10211	220	11830	1729	12105	2129
10212	221	11831	1730	12106	Deleted ineffective 1953
10213	222	11832	1731		
11501	1000	11861	1755	12131	2150
11502	1001	11862	1756	12132	2151
11503	1002	11863	1757	12133	2152
11504	1003	11864	1758	12134	2153
11505	1004	11865	1759	12161	2175
11506	1005	11866	1760	12162	2176
11507	1006	11881	1780	12163	2177
11531	1025	11882	1781	12164	2178
11532	1026	11883	1782	12165	2179
11533	1027	11884	1783	12166	2180
11534	1028	11885	1784	12167	2181
11535	1029	11886	1785	12301	2400

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
12302	2401	12873	2912	13151.3	3408
12303	2402	12874	2913	13151.4	3409
12304	2403	12891	2935	13151.5	3410
12305	2404	12892	2936	13151.6	3411
12306	2405	12893	2937	13151.7	3412
12331	2425	12894	2938	13151.8	3413
12332	2426	12895	2939	13151.9	3414
12333	2427	12896	2940	13151.10	3415
12334	2428	12897	2941	13151.11	3416
12335	2429	12898	2942	13151.12	3417
12336	2430	12899	2943	13151.13	3418
12337	2431	12900	2944	13151.14	3419
12361	2455	12901	2945	13151.15	3420
12362	2456	12902	2946	13151.16	3421
12363	2457	12903	2947	13151.17	3422
12364	2458	12904	2948	13152	3423
12391	2480	12921	2970	13161	3445
12392	2481	12922	2971	13162	3446
12701	2700	13071	3200	13163	3447
12702	2701	13072	3201	13164	3448
12703	2702	13073	3202	13165	3449
12721	2725	13081	3225	13166	3450
12722	2726	13082	3226	13171	3470
12751	2750	13083	3227	13172	3471
12752	2751	13084	3228	13173	3472
12753	2752	13085	3229	13174	3473
12771	2775	13091	3250	13175	3474
12772	2776	13092	3251	13176	3475
12801	2800	13093	3252	13177	3476
12802	2801	13094	3253	13181	3500
12803	2802	13095	3254	13182	3501
12804	2803	13096	3255	13183	3502
12805	2804	13101	3275	13184	3503
12806	2805	13102	3276	13191	3525
12807	2806	13103	3277	13192	3526
12808	2807	13104	3278	13193	3527
12809	2808	13105	3279	13201	3800
12810	2809	13106	3280	13202	3801
12811	2810	13107	3281	13203	3802
12812	2811	13111	3305	13204	3803
12813	2812	13112	3306	13205	3804
12830	2835	13121	3330	13206	3805
12831	2836	13122	3331	13207	3806
12832	2837	13123	3332	13208	3807
12833	2838	13124	3333	13209	3808
12841	2860	13131	3355	13210	3809
12842	2861	13132	3356	13211	3810
12843	2862	13133	3357	13212	3811
12844	2863	13134	3358	13241	3835
12845	2864	13135	3359	13242	3836
12846	2865	13136	3360	13243	3837
12850	2885	13141	3380	13244	3838
12851	2886	13142	3381	13261	3860
12852	2887	13151	3405	13262	3861
12871	2910	13151.1	3406	13263	3862
12872	2911	13151.2	3407	13281	3885

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
13282	3886	13656	4385	14211	5250
13283	3887	13657	4386	14351	5500
13284	3888	13658	4387	14352	5501
13285	3889	13659	4388	14353	5502
13286	3890	13660	4389	14354	5503
13287	3891	13661	4390	14355	5504
13288	3892	13691	4410	14356	5505
13311	3915	13801	4700	14357	5506
13312	3916	13802	4701	14358	5507
13341	3940	13821	4725	14359	5508
13342	3941	13822	4726	14381	5530
13343	3942	13823	4727	14382	5531
13344	3943	13824	4728	14383	5532
13345	3944	13825	4729	14384	5533
13346	3945	13826	4730	14401	5800
13347	3946	13827	4731	14501	6000
13348	3947	13851	4755	14502	6001
13451	4200	13852	4756	14503	6002
13452	4201	13853	4757	14504	6003
13453	4202	13854	4758	14505	6004
13454	4203	13855	4759	14506	6005
13455	4204	13856	4760	14507	6006
13456	4205	13886	4780	14508	6007
13481	4225	13911	4800	14509	6008
13482	4226	13912	4801	15501	6500
13483	4227	13931	4825	15502	6501
13484	4228	13932	4826	15503	6502
13485	4229	13951	4850	15504	6503
13486	4230	14051	5100	15505	6504
13487	4231	14052	5101	15506	6505
13488	4232	14053	5102	15507	6506
13511	4255	14054	5103	15531	6530
13512	4256	14055	5104	15532	6531
13513	4257	14056	5105	15533	6532
13531	4280	14081	5125	15701	6800
13532	4281	14082	5126	15702	6801
13561	4305	14083	5127	15703	6802
13562	4306	14084	5128	15704	6803
13563	4307	14085	5129	15705	6804
13564	4308	14086	5130	15706	6805
13565	4309	14087	5131	15707	6806
13591	4330	14111	5155	15708	6807
13592	4331	14112	5156	15731	6830
13593	4332	14113	5157	15732	6831
13621	4355	14114	5158	15733	6832
13622	4356	14115	5159	15734	6833
13623	4357	14116	5160	15735	6834
13624	4358	14141	5180	15736	6835
13625	4359	14161	5200	15737	6836
13651	4380	14162	5201	15738	6837
13652	4381	14163	5202	15761	6860
13653	4382	14191	5225	15762	6861
13654	4383	14192	5226	15763	6862
13655	4384	14193	5227	15764	6863

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
15765	6864	16042	7281	16408	7707
15791	6885	16043	7282	16409	7708
15792	6886	16071	7305	16431	7730
15793	6887	16072	7306	16432	7731
15794	6888	16073	7307	16461	7755
15795	6889	16074	7308	16462	7756
15796	6890	16075	7309	16463	7757
15797	6891	16076	7310	16464	7758
15821	6915	16077	7311	16465	7759
15822	6916	16078	7312	16466	7760
15841	6940	16079	7313	16467	7761
15842	6941	16080	7314	16467.1	7762
15843	6942	16081	7315	16468	7763
15844	6943	16082	7316	16469	7764
15845	6944	16083	7317	16470	7765
15846	6945	16084	7318	16471	7766
15951	7200	16111	7340	16472	7767
15952	7201	16112	7341	16473	7768
15953	7202	16113	7342	16474	7769
15954	7203	16114	7343	16501	7790
15955	7204	16115	7344	16502	7791
15956	7205	16116	7345	16503	7792
15957	7206	16151	7365	16504	7793
15958	7207	16152	7366	16505	7794
15959	7208	16153	7367	16506	7795
15960	7209	16154	7368	16507	7796
15961	7210	16155	7369	16508	7797
15962	7211	16156	7370	16531	7820
15963	7212	16157	7371	16532	7821
15964	7213	16158	7372	16533	7822
15965	7214	16159	7373	16534	7823
15966	7215	16160	7374	16535	7824
15967	7216	16161	7375	16536	7825
15968	7217	16162	7376	16537	7826
15969	7218	16163	7377	16538	7827
15970	7219	16164	7378	16539	7828
15971	7220	16165	7379	16540	7829
15972	7221	16171	7400	16541	7830
15973	7222	16172	7401	16542	7831
16001	7245	16173	7402	16543	7832
16002	7246	16174	7403	16544	7833
16003	7247	16191	7425	16571	7855
16004	7248	16192	7426	16572	7856
16031	7270	16193	7427	16573	7857
16032	7271	16194	7428	16574	7858
16033	7272	16195	7429	16575	7859
16034	7273	16196	7430	16576	7860
16035	7274	16401	7700	16577	7861
16036	7275	16402	7701	16601	7885
16037	7276	16403	7702	16602	7886
16038	7277	16404	7703	16603	7887
16039	7278	16405	7704	16604	7888
16040	7279	16406	7705	16605	7889
16041	7280	16407	7706	16606	7890

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
16607	7891	16845	8244	17321	8920
16608	7892	16846	8245	17322	8921
16609	7893	16871	8265	17323	8922
16610	7894	16872	8266	17324	8923
16611	7895	16873	8267	17325	8924
16612	7896	16874	8268	17326	8925
16613	7897	16875	8269	17327	8926
16614	7898	16876	8270	17328	8927
16641	7920	16877	8271	17329	8928
16642	7921	16878	8272	17330	8929
16643	7922	16879	8273	17331	8930
16644	7923	16880	8274	17332	8931
16645	7924	16881	8275	17360	8955
16646	7925	16882	8276	17361	8956
16647	7926	16883	8277	17362	8957
16648	7927	16884	8278	17363	8958
16649	7928	16885	8279	17364	8959
16650	7929	17001	8500	17365	8960
16651	7930	17002	8501	17366	8961
16652	7931	17003	8502	17367	8962
16653	7932	17004	8503	17368	8963
16654	7933	17005	8504	17369	8964
16655	7934	17006	8505	17370	8965
16656	7935	17007	8506	17371	8966
16657	7936	17008	8507	17372	8967
16658	7937	17009	8508	17373	8968
16659	7938	17101	8700	17374	8969
16681	7960	17102	8701	17375	8970
16682	7961	17103	8702	17376	8971
16683	7962	17104	8703	17377	8972
16684	7963	17105	8704	17378	8973
16685	7964	17106	8705	17379	8974
16686	7965	17107	8706	17380	8975
16801	8200	17108	8707	17381	8976
16802	8201	17301	8900	17382	8977
16803	8202	17302	8901	17501	9200
16804	8203	17303	8902	17502	9201
16805	8204	17304	8903	17503	9202
16806	8205	17305	8904	17504	9203
16807	8206	17306	8905	17505	9204
16808	8207	17307	8906	17506	9205
16809	8208	17308	8907	17507	9206
16810	8209	17309	8908	17508	9207
16811	8210	17310	8909	17509	9208
16812	8211	17311	8910	17510	9209
16813	8212	17312	8911	17531	9230
16814	8213	17313	8912	17532	9231
16815	8214	17314	8913	17533	9232
16816	8215	17315	8914	17534	9233
16817	8216	17316	8915	17701	9500
16841	8240	17317	8916	17702	9501
16842	8241	17318	8917	17703	9502
16843	8242	17319	8918	17704	9503
16844	8243	17320	8919	17705	9504

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
17706	9505	22152	10701	22733	11532
17707	9506	22153	10702	22734	11533
17708	9507	22176	10725	22735	11534
17709	9508	22177	10726	22736	11535
17710	9509	22178	10727	22737	11536
17711	9510	22201	10750	22738	11537
17731	9530	22202	10751	22739	11538
17732	9531	22203	10752	22740	11539
17733	9532	22204	10753	22741	11540
17734	9533	22226	10775	22742	11541
17735	9534	22227	10776	22743	11542
17736	9535	22228	10777	22744	11543
17737	9536	22229	10778	22745	11544
17738	9537	22230	10779	22746	11545
17739	9538	22231	10780	22747	11546
17761	9560	22232	10781	22748	11547
17762	9561	22256	10800	22749	11548
17763	9562	22257	10801	22750	11549
17764	9563	22258	10802	22776	11570
17765	9564	22259	10803	22777	11571
17766	9565	22401	11000	22778	11572
17767	9566	22402	11001	22779	11573
17768	9567	22403	11002	22780	11574
17769	9568	22404	11003	22781	11575
17770	9569	22405	11004	22782	11576
17771	9570	22406	11005	22783	11577
17772	9571	22407	11006	22784	11578
17773	9572	22408	11007	22785	11579
17774	9573	22409	11008	22786	11580
17775	9574	22410	11009	22811	11600
17776	9575	22436	11030	22812	11601
18000	9595	22437	11031	22813	11602
18001	9596	22438	11032	22814	11603
18002	9597	22439	11033	22901	11800
18003	9598	22440	11034	22902	11801
18004	9599	22441	11035	22903	11802
22001	10500	22442	11036	22904	11803
22002	10501	22443	11037	22905	11804
22003	10502	22551	11300	22906	11805
22004	10503	22552	11301	22907	11806
22005	10504	22553	11302	22908	11807
22006	10505	22554	11303	22951	12000
22007	10506	22555	11304	22952	12001
22008	10507	22556	11305	22953	12002
22009	10508	22701	11500	22954	12003
22010	10509	22702	11501	22975	12200
22011	10510	22703	11502	22976	12201
22012	10511	22704	11503	22977	12202
22013	10512	22705	11504	22978	12203
22014	10513	22706	11505	22979	12204
22015	10514	22707	11506	24501	13000
22016	10515	22708	11507	24502	13001
22017	10516	22731	11530	24503	13002
22151	10700	22732	11531	24504	13003

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
24505	13004	24865	13454	25361	13800
24506	13005	24866	13455	25362	13801
24507	13006	24881	13475	25363	13802
24508	13007	24882	13476	25364	13803
24509	13008	24883	13477	25391	13825
24531	13030	24884	13478	25392	13826
24532	13031	24885	13479	25701	13950
24533	13032	24886	13480	25702	13951
24534	13033	24887	13481	25703	13952
24535	13034	24888	13482	25721	13970
24561	13150	24889	13483	25722	13971
24562	13151	24890	13484	25751	13990
24581	13170	24906	13505	25752	13991
24582	13171	24907	13506	25753	13992
24583	13172	24908	13507	25771	14010
24611	13190	24909	13508	25772	14011
24612	13191	24910	13509	25801	14030
24613	13192	24911	13510	25802	14031
24614	13193	24912	13511	25803	14032
24641	13215	24926	13530	25804	14033
24642	13216	24927	13531	25805	14034
24643	13217	24928	13532	25806	14035
24644	13218	24929	13533	25807	14036
24645	13219	24930	13534	25808	14037
24646	13220	24931	13535	25809	14038
24647	13221	24932	13536	25810	14039
24648	13222	24933	13537	25811	14040
24649	13223	24934	13538	25812	14041
24650	13224	24935	13539	25813	14042
24651	13225	24936	13540	25814	14043
24652	13226	24937	13541	25815	14044
24653	13227	24938	13542	25816	14045
24654	13228	24939	13543	25841	14065
24655	13229	24940	13544	25842	14066
24656	13230	24941	13545	25843	14067
24681	13250	25051	13650	25844	14068
24701	13270	25052	13651	25871	14090
24801	13400	25053	13652	25872	14091
24821	13420	25054	13653	25873	14092
24822	13421	25055	13654	25874	14093
24823	13422	25056	13655	25891	14115
24824	13423	25301	13750	25892	14116
24825	13424	25302	13751	25893	14117
24826	13425	25303	13752	25894	14118
24827	13426	25304	13753	25895	14119
24828	13427	25305	13754	25896	14120
24829	13428	25306	13755	25897	14121
24830	13429	25331	13775	25898	14122
24831	13430	25332	13776	25899	14123
24832	13431	25333	13777	25900	14124
24861	13450	25334	13778	25901	14125
24862	13451	25335	13779	25902	14126
24863	13452	25336	13780	25903	14127
24864	13453	25337	13781	26201	14250

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
26202	14251	26551	14630	28505	15406
26203	14252	26651	14750	28506	15407
26204	14253	26652	14751	28507	15408
26205	14254	26653	14752	28508	15409
26206	14255	26654	14753	28509	15410
26207	14256	26655	14754	28600	15550
26208	14257	26656	14755	28601	15551
26209	14258	26681	14775	28602	15552
26210	14259	26682	14776	28700	15650
26211	14260	26683	14777	28701	15651
26212	14261	26684	14778	28702	15652
26241	14280	26685	14779	28703	15653
26242	14281	26686	14780	28704	15654
26243	14282	26687	14781	28705	15655
26244	14283	27011	14800	28706	15656
26261	14305	27012	14801	28707	15657
26262	14306	27013	14802	28730	15675
26263	14307	27014	14803	28731	15676
26281	14325	27015	14804	28732	15677
26282	14326	27016	14805	28733	15678
26283	14327	27041	14825	28734	15679
26284	14328	27061	14845	28735	15680
26285	14329	27062	14846	28736	15681
26286	14330	27063	14847	28737	15682
26287	14331	27091	14865	28738	15683
26311	14350	27111	14885	28739	15684
26312	14351	27251	15000	28740	15685
26341	14370	27252	15001	28741	15686
26342	14371	27253	15002	28742	15687
26343	14372	27254	15003	28760	15705
26344	14373	27255	15004	28761	15706
26345	14374	27256	15005	28762	15707
26346	14375	27257	15006	28763	15708
26347	14376	27258	15007	28764	15709
26348	14377	27259	15008	28765	15710
26401	14500	27281	15030	28766	15711
26402	14501	27282	15031	28767	15712
26421	14520	27283	15032	28768	15713
26422	14521	27284	15033	28769	15714
26423	14522	27501	15150	28770	15715
26424	14523	27502	15151	28771	15716
26425	14524	27503	15152	28772	15717
26426	14525	27504	15153	28773	15718
26427	14526	27505	15154	28774	15719
26451	14545	27506	15155	28790	15740
26452	14546	27507	15156	28791	15741
26453	14547	27508	15157	28792	15742
26454	14548	27509	15158	28793	15743
26455	14549	28500	15400	28794	15744
26456	14550	28501	15401	28795	15745
26486	14570	28502	15402	28796	15746
26511	14590	28502.1	15403	28810	15765
26531	14610	28503	15404	28811	15766
26532	14611	28504	15405	28812	15767

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
28813	15768	28992	16207	29162	16612
28814	15769	29010	16225	29163	16613
28815	15770	29011	16226	29164	16614
28816	15771	29030	16245	29165	16615
28817	15772	29031	16246	29166	16616
28818	15773	29032	16247	29167	16617
28819	15774	29033	16248	29168	16618
28830	15795	29034	16249	29169	16640
28831	15796	29035	16250	29170	16641
28832	15797	29036	16251	29171	16642
28833	15798	29037	16252	29172	16643
28834	15799	29038	16253	29173	16644
28835	15800	29039	16254	29174	16645
28836	15801	29040	16255	29175	16646
28850	15900	29041	16256	29176	16647
28851	15901	29042	16257	29177	16648
28852	15902	29043	16258	29178	16649
28853	15903	29044	16259	29179	16650
28854	15904	29045	16260	29180	16651
28855	15905	29046	16261	29181	16652
28870	16000	29047	16262	29182	16653
28871	16001	29060	16280	29183	16654
28872	16002	29061	16281	29184	16655
28873	16003	29062	16282	29185	16656
28874	16004	29080	16300	29186	16657
28875	16005	29081	16301	29187	16658
28890	16025	29100	16320	29200	16680
28891	16026	29101	16321	29201	16681
28892	16027	29102	16322	29202	16682
28893	16028	29103	16323	29210	16700
28894	16029	29120	16450	29211	16701
28895	16030	29121	16451	29212	16702
28896	16031	29122	16452	29213	16703
28910	16050	29123	16453	29214	16704
28911	16051	29124	16454	29215	16705
28912	16052	29125	16455	29216	16706
28913	16053	29126	16456	29217	16707
28950	16150	29127	16457	29218	16708
28951	16151	29128	16458	29219	16709
28952	16152	29129	16459	29220	16710
28953	16153	29130	16460	29221	16711
28954	16154	29131	16461	29222	16712
28955	16155	29150	16600	29223	16713
28956	16156	29151	16601	29224	16714
28957	16157	29152	16602	29225	16715
28958	16158	29153	16603	29230	16735
28970	16180	29154	16604	29231	16736
28971	16181	29155	16605	29232	16737
28972	16182	29156	16606	29233	16738
28973	16183	29157	16607	29240	16760
28974	16184	29158	16608	29241	16761
28975	16185	29159	16609	29250	16780
28990	16205	29160	16610	29251	16781
28991	16206	29161	16611	29252	16782

EXHIBIT A—Continued

PROPOSED DISPOSITION OF PUBLIC UTILITIES CODE SECTIONS IN NEW PUBLIC SERVICES CODE

P. U. C.	*P. S. C.*	*P. U. C.*	*P. S. C.*	*P. U. C.*	*P. S. C.*
29253	16783	29520	16975	29580	17065
29254	16784	29521	16976	29650	17200
29260	16805	29522	16977	29651	17201
29261	16806	29523	16978	29652	17202
29262	16807	29524	16979	29653	17203
29270	16825	29525	16980	29654	17204
29271	16826	29526	16981	29750	17300
29280	16845	29540	17000	29751	17301
29281	16846	29541	17001	29752	17302
29282	16847	29542	17002	29753	17303
29500	16950	29543	17003	29754	17304
29501	16951	29544	17004	29755	17305
29502	16952	29545	17005	29756	17306
29503	16953	29560	17025	29757	17307
29504	16954	29570	17045		

REPORT OF THE SUBCOMMITTEE ON PUBLIC UTILITIES COMMISSION'S SAFETY REGULATIONS

TO

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

House Resolution No. 266, 1957

MEMBERS OF SUBCOMMITTEE

CHARLES H. WILSON, *Chairman*

MONTIVEL A. BURKE
AUGUSTUS F. HAWKINS
LOUIS FRANCIS
WILLIAM F. MARSH

ROBERT S. THURN, *Consultant*
NORMA WAGGERSHAUSER, *Secretary*

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SUBCOMMITTEE LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY INTERIM COMMITTEE ON
PUBLIC UTILITIES AND CORPORATIONS
SACRAMENTO, February 16, 1959

HON. REX M. CUNNINGHAM, *Chairman*
Assembly Interim Committee on Public Utilities and Corporations

DEAR MR. CUNNINGHAM: Attached is the Report of the Subcommittee on Public Utilities Commission's Safety Regulations, which subcommittee was set up as a result of House Resolution No. 266 of the 1957 Regular Session.

The report presents the results of the subcommittee study conducted during the 1957-59 interim, summarizes the testimony presented at two hearings, and presents the subcommittee findings and recommendations.

The committee wishes to express its appreciation to the many individuals and organizations for valued assistance, the results of which are reflected in this report.

Respectfully submitted,

CHARLES H. WILSON, Chairman
MONTIVEL A. BURKE
LOUIS FRANCIS
AUGUSTUS F. HAWKINS
WILLIAM F. MARSH

HOUSE RESOLUTION NO. 266

By Mr. Wilson

Relative to the appointment of a Subcommittee on Air Brake Testing by the Assembly Interim Committee on Public Utilities and Corporations.

Resolved by the Assembly of the State of California, as follows:

1. The Assembly Interim Committee on Public Utilities and Corporations is authorized and directed to appoint a Subcommittee on Air Brake Testing to ascertain, study, and analyze all facts relating to the best methods of testing motor vehicle air brake equipment to insure compliance with the provisions of Assembly Bill No. 3735 of this session, and to report thereon to the full committee, including in its report its recommendations for appropriate legislation.

7—L-4106

PERSONS APPEARING AND TESTIFYING BEFORE THE SUBCOMMITTEE ON PUC SAFETY REGULATIONS OF THE ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

ALAN G. ANDERSON, Secretary, Private Truck Bureau of California
CARL ANDERSON, Association of Northern California Loggers
ORVILLE R. CALDWELL, Assistant Administrative Officer, County of Los Angeles
BRETT CANFIELD, Motor Rim and Wheel Service
THOMAS CHAPELLE, Representative, Fred Barnett Company, Eureka
J. A. EISELE, Emergency Brakes, Inc., Los Angeles
WILLIAM J. HUETIG, Safety Inspector, Bureau of Motor Carriers, Interstate Commerce Commission
H. K. JACOBS, Captain, California Highway Patrol
BERNT JOHNSON, Power Brake Equipment Company
WARNER L KEEHN, Keehn-o Manufacturing Company
E L KELL, Nu-Valve Corporation
HERBERT McMAHAN, Fleet Superintendent, Ralph L. Smith Lumber Company
T. E. ROGERS, California Public Utilities Commission
FLOYD H. RYDALCH, Brimco Manufacturing Company
CHARLES SANDS, Interstate Commerce Commission
BERT TRASK, California Trucking Association
CHARLES G WEARDEN, Maxi Corporation
GLEN L. WILKES, Keehn-o Manufacturing Company
A. J. WINSTON, California Public Utilities Commission

Hearings were held in Eureka, California, on August 30, 1957, and in Sacramento on January 14, 1958.

TRAFFIC ACCIDENTS, CAUSES AND EFFECTS

In order to determine whether or not legislation is needed requiring a supplemental braking system for trucks and trailers, your subcommittee received testimony relative to the number of accidents occurring and the cause of the accidents. Testimony was received that: 97 out of every 100 accidents occurred to experienced drivers; that in the United States someone is killed every 14 minutes; someone is permanently injured every 14 minutes. 36,000 people were killed in 1954, 38,000 were killed in 1955 and 40,000 people were killed in 1956 and the number of fatalities increases at the rate of about 7 percent per year.

Testimony was also received that 43 percent of all accidents were caused by speeding. The next greatest cause of accidents was that the vehicle responsible for the accident was on the wrong side of the road as the result of numerous reasons The third condition that caused accidents was failure to yield the right of way. Reckless driving is considered one aspect of this condition. Following the three most important causes of accidents are many miscellaneous causes such as running off the road, cutting in and out, pasing on the wrong side, wrong or no signal and many other acts of carelessness. All of the foregoing causes of vehicle accidents are considered as driver failure and account for 13 out of every 15 accidents. Mechanical defects account for about one out of every 15 accidents and for about one out of 15 no cause can be attributed. (See Exhibit A, truck accident reports for 1956 relative to vehicles under California Public Utilities Commission regulation.)

TRUCK JURISDICTION IN CALIFORNIA

On of the most important aspects relative to the regulation of motor trucks in California is the problem of divided jurisdiction. The Interstate Commerce Commission regulates trucks and trailers when the equipment is used in interstate commerce, even though the truck or trailer does not leave this State. In fact, the subcommittee was told that the majority of the trucks and trailers regulated by the ICC do not leave the State. The trucks and trailers under ICC jurisdiction must comply with equipment requirements specified in ICC regulations (see Exhibit B). The subcommittee did not receive testimony that gave the number of trucks and trailers operating in California under ICC regulations.

The California Public Utilities Commission also regulates a portion of the trucks and trailers operating in California In its regulations the California PUC also requires certain equipment on the trucks and trailers subject to its jurisdiction (see Exhibit B). In 1956 there were 312,848 trucks and truck tractors having a gross weight in excess of 4,000 pounds and 71,242 trailers having a gross weight in excess of 3,000 pounds. Of the total of 384,090 vehicles registered, a total of 35,000 vehicles of a similar size and type are regulated under General Order 99 adopted by the California Public Utilities Commission. This represents 9.11 percent of the total vehicles registered of this size. If an equal number is regulated by the Interstate Commerce Commission then approximately 80 percent of the trucks and trailers registered in California need only comply with the equipment requirements of the California Vehicle Code (see Exhibit C).

BRAKE FAILURE AS A CAUSE OF ACCIDENTS

In accidents caused by mechanical defects brakes are the greatest single cause, however not the major one. Out of every 15 accidents only one is caused by mechanical failure. Brakes account for a little more than one-third of this type of accident followed by other causes such as wheels, tires, engines, coupling devices, steering, lights, fuel, axles and other parts.

Brake failures are due to one or more of the following four causes: weak brakes; slow brakes; mechanical failure and brake drum expansion.

The Interstate Commmerce Commission defines a weak brake as one that will not stop the vehicle in 30 feet at a speed of 20 miles per hour. Weak brakes can be caused by not enough air reaching the brake cylinder, the air pressure may be adjusted too low, the brake drum may be too small, the brake cylinder may be too small or the vehicle may be overloaded. Further, weak brakes may be caused by failure to adjust the brakes so as to receive the maximum braking power that the brake is capable of producing. Worn brake lining is another factor that can cause the condition called weak brakes.

Brakes may hold very well but take too long to apply. These are called slow brakes. Testimony was received that for normal air brakes it takes four-tenths of a second for the brakes to apply, however that trucks had been checked that required two seconds for the brakes to apply. The slower the brake the greater the danger of accident Slow

braking may be the result of one of many conditions such as sharp bends in air hoses, improper installation of air lines, foreign matter in air lines, slow acting relay valves or just not enough air pressure.

Weak brakes and slow brakes are most often caused by a continuing condition and can be discovered by a simple test that can be used at any time. These two conditions can be discovered by having the vehicle moved at a low rate of speed then having the brakes applied. This test may not bring to light the exact cause of the condition but will give notice that the brakes are not satisfactory.

There are many parts and accessories that go to make up a vacuum or hydraulic brake system. Failure of part of the system can result in the vehicle being without brakes. Whenever there is a failure in the braking system that results in loss of pressure, the driver of the vehicle should be immediately aware of the condition. The Interstate Commerce Commission and the California Public Utilities Commission require a warning device that will give the driver notice of mechanical failure in time to prevent an accident.

Public Utilities Commission General Order No. 99 Section 5.29 requires: 5.29 low air pressure warning signal (sound alarm, distinctive red light or other effective device readily visible or audible to driver) which will give satisfactory warning when air pressure drops to 60 pounds or less.

Interstate Commerce Commission Regulation 193.51 requires: 193.51 audible or visible warning signal to readily indicate to the driver any lack of air sufficient to prevent the vehicle from being stopped.

The above regulations only apply to those vehicles which are under the jurisdiction of either the Interstate Commerce Commission or the California Public Utilities Commission. The majority of the trucks and trailers operating on the highways of California do not come within the jurisdiction of either body. There is no provision in the California Vehicle Code requiring a warning device of any kind.

In addition to warning devices, the Interstate Commerce Commission and the California Public Utilities Commission require other mechanical devices that increase the safety factor of the brake systems on trucks and trailers under their respective jurisdictions.

Public Utilities Commission General Order No. 99 requires the following equipment on highway common carriers, petroleum irregular route carriers and petroleum contract carriers which are equipped with air brakes:

5.03. Single valve to operate all service brakes on motor vehicle and combination of vehicles.

5.06. Additional valve, if used to operate trailer brakes only, adjusted to deliver approximately two-thirds of normal reservoir air pressure (range of 85 to 120 pounds) to brake chambers when fully applied.

5.09. Foot valve adjusted and maintained to deliver within five pounds of maximum available reservoir pressure to brake chamber on rearmost axle when fully applied.

5.21. Safety valve connected to air reservoir adjusted to open at pressure not exceeding 150 pounds and close at pressure above maximum air governor setting.

5.24. Air governor adjusted to cut out at not more than 120 pound and cut in at not less than 85 pounds.

5.26. Air pressure gauge accurate within five pounds and visible to driver at all times.

Interstate Commerce Commission. The Motor Carrier Safety regulations in part require the following additional equipment on vehicles under ICC jurisdiction:

193.42. No-bleed-back relay valves or equivalent devices to safeguard against backflow of air from trailer reservoir through supply line of airbrake system on towed vehicles manufactured after August 31, 1956. Automatic application of trailer brakes when truck air drops to a fixed pressure not lower than 20 pounds nor higher than 45 pounds in airbrake systems on every truck and truck tractor used to tow another vehicle equipped with airbrakes.
Manual control device readily operable from driver's seat to actuate emergency feature of trailer brakes.

193.43(b) Second control, independent of service brake pressure and other controls, which can be used to operate vacuum brakes on trailer in emergencies on every truck and truck tractor used in towing trailers equipped with vaccum brakes.

193 45. Brake tubing and hose secured against chafing, kinking or other mechanical injury.

193.50. Check valve or equivalent device at reservoir to prevent loss of air in the event of leakage or failure of the connection to the compressor on every truck tractor and every truck used for towing other vehicles. (A comparison between the provisions of the California Vehicle Code and the regulations of the Interstate Commerce Commission and the California Public Utilities Commission is contained in Exhibit B.)

THE RUNAWAY TRUCK

The fourth case of brake failure is that caused by the expansion of the brake drum. Testimony was received from representatives of the Interstate Commerce Commission that the great majority of so called runaway truck are runaways due to brake drum expansion. The ICC, to prove this contention, made a test using a brand new truck which had been checked and which was in perfect condition. The test was made in California on Highway 99 on a hill called five-mile grade. Air pressure throughout the test was maintained at 85 pounds and the brake drums were cold prior to the test. The test was made by having the truck run down the grade pulling the load in high gear at a speed of 55 miles per hour with the brakes applied. At the start of the test the

brake arm had to travel five-eighths of an inch to apply the brakes. After 60 seconds the brake drum's temperature had increased to 150 degrees and the brake arm had to travel three-fourths of an inch to apply the brakes. At this time the driver still had more than adequate brakes. At 180 seconds the temperature increased to 700 degrees and the brake arm had to travel one inch to apply the brakes. After 240 seconds the temperature of the brake drum had increased to 1,000 degrees. The brake arm now had to travel 1¼ inches in order to apply the brakes. At 255 seconds the temperature of the brake drum had increased to 1,500 degrees. The brake arm now had to travel 1½ inches in order to apply the brakes. At 270 seconds the temperature of the brake drum was 2,500 degrees and the brake arm could no longer travel a sufficient distance to reach the brake drum. The truck was now a runaway. Up until the brakes actually failed the driver had brakes and had no way of knowing the condition of the brake drum. In this test the condition of perfect brakes to complete failure happened in just four and one-half minutes. After the brakes were allowed to cool the brakes were again in perfect condition.

ENFORCEMENT OF BRAKE EQUIPMENT REGULATIONS

The California Public Utilities Commission enforces its regulations by means of inspection and requiring the truck or trailer owner to keep maintenance records. The inspections are made at the terminals from which the truck and trailers operate. Not only are the trucks and trailers physically inspected but the maintenance records of the whole fleet the carrier operates are also inspected. In the six-month period from July 1, 1957, to January 1, 1958, the truck operations division of the Public Utilities Commission inspected 1,969 vehicles and 795 terminals. This means they had inspected approximately 10 percent of the vehicles operated by the carriers who were inspected. It is the contention of the Public Utilities Commission that preventive maintenance enforced by spot checks of trucks and trailers and the requirement of maintenance records is the soundest way to enforce equipment regulations and does the most to promote safety.

The Interstate Commerce Commission follows a preventive maintenance system much like that of the California Public Utilities Commission. However, in addition to terminal inspections the ICC also does check the trucks and trailers under its jurisdiction on the road.

EMERGENCY BRAKING EQUIPMENT

The subcommittee received testimony relative to many different types of emergency equipment which could be installed on trucks and which would be, in many cases, available to the driver to facilitate him in bringing a truck to a stop after failure of the primary braking system.

The different types of emergency equipment will not be discussed in this report individually but a summarization of the testimony received by this subcommittee shows that there are certain types of emergency equipment which would use the brake drum and brake shoe used by the primary equipment but would activate the equipment when there was a failure in the primary system's actuating device. There are other types of equipment which would turn the truck motor into a

compressor and use the compression to halt the vehicle. There are other types that would operate by dropping skids which one set of wheels of the truck would run upon and which use the friction created to stop the vehicle. There are other types that would apply the braking principle to the axle. This does not give all the possible types manufactured but does show the great amount of deviation between the different types of emergency braking systems which shows the problem of legislating a requirement that all trucks be equipped with emergency braking equipment.

The subcommittee requested a list of the manufacturers of emergency braking equipment on file with the California Public Utilities Commission. This was furnished the subcommittee by the commission and is attached to this report. (See Exhibit D.)

In addition to the great diversity in types of emergency braking equipment there is a great differential in the cost of these systems. Testimony was received by the subcommittee that certain types would sell for as low as $20 per unit. The amount of units required would depend on the amount of wheels which would receive the emergency braking systems. There was testimony that other units would sell for as high as $400. It is possible that there would be units that would sell for more than $400 as the subcommittee did not receive testimony from representatives of all the manufacturers. (See Exhibit D.)

In addition to the problem of the cost factor, testimony was received that some of the emergency braking systems would create a weight problem. Testimony was received that one such system weighed in excess of 380 pounds. The representative of this manufacturer expressed a wish to have the Vehicle Code amended so as to allow overloading up to the amount of the weight of such emergency braking system. There was testimony received from truckers that some emergency systems could become dangerous by becoming activated and "dumping the load."

POSSIBILITY OF FIELD INSPECTIONS

Testimony was received from the California Highway Patrol that at present they make field inspections of truck brake equipment. It was also stated that they could make field inspections of certain safety equipment now required to be on vehicles by the Public Utilities Commission's General Order No. 99 and regulations of the Interstate Commerce Commission.

Exhibit B attached gives the procedure presently followed by the California Highway Patrol and the additional requirements made by California Public Utilities Commission General Order No. 99 and regulations of the Interstate Commerce Commission.

INSURANCE FACTORS

Testimony was received by the subcommittee by representatives of various types of emergency braking systems that they had received assurance from various insurance carriers that upon installation of emergency braking equipment or systems the rates charged for collision insurance would decrease percentagewise enough to offset the cost of emergency braking equipment or systems.

TRANSPORTATION OF PRIVATE AND PAROCHIAL SCHOOL STUDENTS

Testimony was received from Orville R. Caldwell representing the County of Los Angeles relative to state adoption of a law that would require the drivers of private and parochial school buses to qualify on the same basis as is now exercised over the public school bus drivers.

As a result of this testimony, the subcommittee requested Assemblyman Rex M. Cunningham, Chairman of the Assembly Interim Committee on Public Utilities and Corporations, to request the Governor to issue a special call for legislation relative to the transporting of private and parochial school students.

On February 6, 1958, Chairman Cunningham requested Governor Knight to include this subject in the special call. Governor Knight included this subject and in the 1958 Special Session legislation was enacted and is now part of the law of the State of California.

FINDINGS OF THE SUBCOMMITTEE ON PUC SAFETY REGULATIONS

The subcommittee finds:

1. That although brake failure is a minor cause of accidents percentagewise, any legislation that would decrease accidents due to brake failure would be beneficial.
2. That the California Highway Patrol could make field checks on certain types of safety equipment presently required by California Public Utilities Commission General Order No. 99 and regulations of the Interstate Commerce Commission.
3. That at the present time approximately 80 percent of the trucks of similar type and weight operating in the State of California are not required to have safety equipment required by California Public Utilities Commission General Order No. 99 and the regulations of the Interstate Commerce Commission.
4. That at present there is no clear showing as to which type of emergency equipment would be most efficient and economical.
5. That there is a possibility that emergency braking equipment could create a danger to the vehicle.
6. That the insurance companies would probably facilitate the use of emergency braking equipment by lowering their rates when such equipment is installed and in this way bring about the greater use of emergency braking systems.
7. That the most efficient way of attacking the problem of brake failure is by preventive maintenance, driver education and field inspections.

RECOMMENDATIONS OF THE SUBCOMMITTEE ON PUC SAFETY REGULATIONS

The subcommittee recommends:

1. The adoption of legislation which would place in the Vehicle Code the requirements of safety equipment presently contained in the regulations of the Interstate Commerce Commission and the Califorina Public Utilities Commission's General Order No. 99 to be required on vehicles of similar types and weights presently covered by those regulations. (See Exhibit E.)

2. That no emergency braking equipment or system be installed or sold in the State of California unless such emergency braking system or equipment has been approved by the California Highway Patrol.

3. That no legislation be adopted which would require the installation of any one particular type of braking equipment as there are systems which can bring a vehicle to a halt without applying brakes.

EXHIBIT A

March 8, 1957
File: G. O. 99

RECAPITULATION OF TRUCK ACCIDENT REPORTS FOR 1956 (FORM 19-T), SECTION 11.01 OF GENERAL ORDER NO. 99

MR. H. L. ENGELHARDT
Superintendent of Transportation Operations

The following table summarizes the information obtained from accident report forms received up to and including March 6, 1957 for the year 1956:

Type of Accident	*First Quarter*	*Second Quarter*	*Third Quarter*	*Fourth Quarter*	*Annual Total*
Train					
Accidents	6	4	3	3	16
Fatalities	0	0	0	0	0
Injuries	1	2	0	1	4
Street Car					
Accidents	0	0	0	0	0
Fatalities	0	0	0	0	0
Injuries	0	0	0	0	0
Bus					
Accidents	0	2	0	1	3
Fatalities	0	0	0	0	0
Injuries	0	1	0	0	1
Truck					
Accidents	37	25	34	35	131
Fatalities	1	0	1	2	4
Injuries	20	5	15	18	58
Auto					
Accidents	127	138	135	128	528
Fatalities	11	10	13	11	45
Injuries	66	90	78	84	318
Motorcycle and bicycle					
Accidents	0	3	2	2	7
Fatalities	0	0	0	0	0
Injuries	0	3	3	2	8
Pedestrian					
Accidents	3	4	5	3	15
Fatalities	1	0	2	1	4
Injuries	2	3	3	2	10
Fixed Object					
Accidents	12	11	16	14	53
Fatalities	0	0	0	0	0
Injuries	0	0	0	3	3
Other					
Accidents	1	2	2	2	7
Fatalities	0	0	0	0	0
Injuries	0	0	0	0	0

Type of Accident	*First Quarter*	*Second Quarter*	*Third Quarter*	*Fourth Quarter*	*Annual Total*
Left Roadway					
Accidents	11	9	11	8	39
Fatalities	0	0	1	0	1
Injuries	2	4	3	3	12
Overturned					
Accidents	14	5	12	7	38
Fatalities	0	0	0	0	0
Injuries	2	1	5	0	8
Other					
Accidents	3	3	4	4	14
Fatalities	1	0	1	0	2
Injuries	0	0	1	0	1
Loading or Unloading					
Accidents	0	1	3	0	4
Fatalities	0	0	1	0	1
Injuries	0	0	2	0	2
Other					
Accidents	0	0	0	0	0
Fatalities	0	0	0	0	0
Injuries	0	0	0	0	0
GRAND TOTAL					
Accidents	214	207	227	207	855
Fatalities	14	10	19	14	57
Injuries	93	109	110	113	425

Commencing January 1, 1956, in the interest of obtaining greater useful information from the accident reporting procedure, a new section was added to the report form for office use This section, briefly, covers the cause of the accident with respect to mechanical or brake failure if applicable. The following table indicates the number of accidents, fatalities and injuries as caused by appropriate category:

Type of Accident	*First Quarter*	*Second Quarter*	*Third Quarter*	*Fourth Quarter*	*Annual Total*
Carrier brake failure					
Accidents	3	4	8	4	19
Fatalities	0	0	1	0	1
Injuries	1	1	3	0	5
Truck mechanical failure					
Accidents	6	1	5	7	19
Fatalities	0	0	0	0	0
Injuries	0	1	2	2	5
Other vehicle mechanical failure					
Accidents	3	1	3	2	9
Fatalities	0	0	0	0	0
Injuries	0	1	2	3	6
Other					
Accidents	29	35	62	45	171
Fatalities	0	0	0	2	2
Injuries	9	16	28	19	72
GRAND TOTAL:					
Accidents	41	41	78	58	218
Fatalities	0	0	1	2	3
Injuries	10	19	35	24	87

Very early in the processing of this new procedure it became evident that many accidents were being caused by factors not adequately covered in the above mentioned categories. Therefore, during the yearly recording such accidents were classified as D 4, with the intent that a final summary and conclusion would be made at the end

of the year. It is now possible to break down this category into the following factors which are not covered in any other category in the Truck Accident Report:

Accidents caused by:	*Annual Total*
Fire	12
Truck driver error probable:	
Excessive speed for conditions	9
Following too close (rear end collision)	59
Failed to observe unusual conditions (ice, oily, inclement weather)	18
Poor load securement	3
Fell asleep	14
Started truck before air pressure built up	3
Insufficient parking brakes	8
Possible physical infirmity (blackout, overdose of medication, etc.)	3
Truck mechanical failure	
5th wheel not properly locked	4
Tire blowouts (front axle)	4
Probable air brake defects	7
Tractor protection valve procedure (see reference below)	3
Trailer broke loose for various reasons	7

With reference to tractor protection valve procedures, a situation has developed through the use of the hand control valve, which is required by ICC regulations to be located in the cab within the driver's reach in order that the driver may manually make an emergency application. Briefly, within the knowledge of the undesigned of the many manufacturers offering various types of tractor protection valves, only two of these will automatically charge the trailer air lines upon reaching a given air pressure. In effect this means that unless the driver remembers to, and manually does, charge the trailer air lines, it is quite possible that his combination of vehicles will be without any brakes whatsoever other than what is available on his truck or truck-tractor.

The three accidents caused by this effect came about because in each case the driver slept a few hours on the road. During this interval the air pressure in the system leaked out and the tractor protective valve went into emergency, as it is designed to do, thereby shutting off all air to the trailers. Inferential evidence suggests that said air leak was in the trailer section of the air brake system. Thereupon when the driver set about to rebuild his air pressure his air guage indicated a safe operating pressure and the *low air pressure warning device indicated safe operating pressure,* he was unaware that his tractor emergency valve still was in the emergency position and that his trailers air lines were still unloaded. Subsequent events placed a greater demand on the braking system of the combination of vehicles than was the truck or tractor able to supply, thereby causing an accident. This matter has been discussed at great length with various carriers and most of them concur with the above observation and many stated personal knowledge of similar failures resulting in "close calls".

With reference to the 14 cases of driver falling asleep, it is important to realize that these are all acknowledged cases. We have many, many accidents covered in this report where no reason can be arrived at to satisfactorily explain the reason for the accident. Many drivers

report "phantom vehicles" forcing them off the road. It is the personal opinion of the undersigned that many of this type of accident are attributable to driver dozing at the wheel.

s/ A. I. WINSTON
Truck Operations Supervisor

EXHIBIT B

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

GUIDE FOR INSPECTING AIR BRAKE SYSTEMS

The following procedure has been prepared for use in checking air brake systems for proper operation. The outline covers various types of defects, any one of which may result in reduced braking or complete loss of brakes. The time available for checking the brakes on each vehicle normally will not be sufficient for a thorough inspection to be made of all the items listed. Many of the major defects can be detected without the use of special gauges and without making a stopping distance test where equipment is not available or where there is no suitable test location.

A. Brake Inspection on Trucks and Truck Tractors

1. Make stopping distance test where possible from speed of approximately 20 MPH in accordance with Vehicle Code Section 670 5 and HGO 81.7.
2. Test parking brake in accordance with instructions in HGO 81.7.
3. With engine running at fast idle, check air pressures indicated by dash gauge.
   (a) Compressor should cut out before pressure reaches approximately 105 pounds per square inch and cut in before pressure drops to not less than 80 pounds. Pressure settings may be higher on recently serviced vehicles; however, 25 pound range should be maintained between cut-in and cut-out pressures.
   (b) Time to raise air pressure from 50 pounds up to 90 pounds should never exceed 3 minutes at 1500 RPM for a single vehicle. Additional time should be allowed when air is being supplied to other vehicles in a combination.
   (c) If air gauge reading drops materially below or greatly exceeds recommended governor cut-in or cut-out pressure, dash gauge may be defective.
4. Check pressure drop with engine stopped and air gauge registering 90 to 100 pounds.
   (a) With brakes released, rate of drop in air pressure should not exceed 2 pounds per minute for satisfactory operation.
   (b) With brakes fully applied, rate of drop in air pressure should not exceed three pounds per minute after initial drop upon application. If vehicle has more than one control valve (hand valve and foot valve), make separate test with each brake valve applied.

5. If leakage or time to build up pressure in above tests exceeds values indicated, the following checks may be made to determine cause.
   (a) If air compressor is belt-driven, check condition and tension of belts. Belts should not slip and should not be frayed.
   (b) Check condition of under-hood air lines and connections to compressor and governor. Lines should not be kinked at bends, flattened, or pinched restricting flow of air. Connections should not be leaking air.
   (c) Inspect condition of lines and valve connections underneath truck, making sure every brake chamber push rod moves when air is applied. Lines should not be kinked or cracked, and hoses must not be checked, swollen, or badly worn. Air should not be leaking from valves, brake chambers, or connections either with or without brake application.
6. Check travel of slack adjuster arms. Push rod should not travel more than $1\frac{3}{4}$ inches for common size 9-inch outside diameter bolted chamber, $2\frac{1}{4}$ inches for largest size (9-inch) clamp type brake chamber, or 3 inches for largest size ($8\frac{7}{8}$-inch) rotochamber. Refer to brake manufacturers' recommendations for allowable travel on smaller size chambers.
7. Open drain cock on first reservoir on tractor to determine condensation or excessive oil pumped by compressor, and note amount of oil and water escaping. Excessive oil may indicate badly clogged air cleaner or worn compressor. Excessive moisture (more than one cupful) usually indicates reservoirs are not drained often enough and leads to mechanical and low-temperature valve and chamber difficulties. Where the oil and water are homogenized, a dark colored mixture indicates excessive oil as compared to a clear, lightly colored mixture.

B. Brake Inspection on Combinations of Vehicles

1. Apply similar tests as for truck or truck tractor alone, except that air leakage should not exceed three pounds per minute with brakes released and four pounds per minute with brakes applied.
2. Inspect hoses and couplings, checking for leaks noting condition of hoses and method of suspension to prevent chafing. Coupling (gladhand) rubbers must not be defective or show signs of deterioration or presence of oil. Check any taped sections of hose to ascertain if tape covers leaks or excessively worn spots which may fail.
3. Note if trailer has air reservoir and emergency relay or breakaway valve. Observe if trailer brakes are automatically applied immediately upon disconnecting of trailer emergency line from truck. Close emergency cut-out cock on truck before uncoupling emergency line hose unless truck is equipped with automatic shutoff valves. There must be no air leakage from disconnected trailer line.
4. Note time lag between actuation of brake valve and actual operation of brakes. Long tubing of too small diameter, sharp bends, and elbow fittings will increase time lag and decrease overall effectiveness of brakes.

5. Condition of drums and lining are not indicated by the foregoing checks. Some defects, such as crimped tubing, low air pressure, lack of proper relay valves, and excessive travel of slack adjuster, will be apparent in excessive stopping distances if road tests are made.

C. *Braking Equipment Required by the California Vehicle Code*

670(a)1. Brakes adequate to control movement of and to stop and hold motor vehicle, including a service brake and an emergency brake, each effective in applying the brakes to at least two wheels.

670(a)3. Parking brake consisting of mechanical connection from operating lever to brake shoes or bands or other effective locking and releasing mechanism and capable of locking rear driving wheels and of being set to hold vehicle or combination stationary to limit of traction of such wheels.

670.05(a) Service brakes which are capable of stopping vehicle or combination of vehicles within distances specified in the Vehicle Code at any time and under all conditions of loading.

670.05(d) Brakes maintained in good working order and so adjusted as to operate as equally as practicable with respect to wheels on opposite sides of the vehicle.

670.4(b) Brakes on motor vehicles equipped to permit application at least once for stopping vehicle within legal distance after engine has become inoperative.

670.7(a) Power brakes designed to be automatically applied upon breakaway from towing vehicle and capable of stopping and holding towed vehicle stationary for not less than 15 minutes on trailer or semitrailers first registered after December 31, 1955, and required to be equipped with brakes.

670 7(b) Brakes capable of stopping truck or truck tractor in the event of breakaway of towed vehicle on every new truck or truck tractor first registered after December 31, 1955, used in towing a vehicle.

D. *Additional Equipment Required by Regulations of Other Agencies and Recommended for All Vehicles*

The principal equipment requirements of other agencies outlined below are in addition to those specified in the Vehicle Code and are included for the information of the officer or operator using this guide. The complete regulations should be referred to for exact language of each section.

1. *Public Utilities Commission.* General Order No. 99 requires the following equipment on highway common carriers, petroleum irregular route carriers, and petroleum contract carriers which are equipped with air brakes:

5.03 Single valve to operate all service brakes on motor vehicle and combination of vehicles.

5.06 Additional valve, if used to operate trailer brakes only, adjusted to deliver approximately two-thirds of normal reservoir air pressure (range of 85 to 120 pounds) to brake chambers when fully applied.

5.09 Foot valve adjusted and maintained to deliver within five pounds of maximum available reservoir pressure to brake chamber on rearmost axle when fully applied.

5.21 Safety valve connected to air reservoir adjusted to open at pressure not exceeding 150 pounds and close at pressure above maximum air governor setting.

5.24 Air governor adjusted to cut out at not more than 120 pounds and cut in at not less than 85 pounds.

5.26 Air pressure gauge accurate within five pounds and visible to driver at all times.

5.29 Low air pressure warning signal (sound alarm, distinctive red light, or other effective device readily visible or audible to driver) which will give satisfactory warning when air pressure drops to 60 pounds or less.

5.30 Check valve at first reservoir in air supply line between compressor and reservoir or at second reservoir on single pipeline between first and second reservoirs.

2. *Interstate Commerce Commission* The Motor Carrier Safety Regulations in part require the following additional equipment on vehicles under ICC jurisdiction:

193.43(a) No-bleed-back relay valves or equivalent devices to safeguard against backflow of air from trailer reservoir through supply line of air brake systems on towed vehicles manufactured after August 31, 1956.

Automatic application of trailer brakes when truck air drops to a fixed pressure not lower than 20 pounds nor higher than 45 pounds in air brake systems on every truck and truck tractor used to tow another vehicle equipped with air brakes.

Manual control device readily operable from driver's seat to actuate emergency feature of trailer brakes.

193.43(b) Second control, independent of service brake pressure and other controls, which can be used to operate vacuum brakes on trailer in emergencies on every truck and truck tractor used in towing trailers equipped with vacuum brakes.

193.45 Brake tubing and hose secured against chafing, kinking, or other mechanical injury.

193.50 Check valve or equivalent device at reservoir to prevent loss of air in the event of leakage or failure of the connection to the compressor on every truck tractor and every truck used for towing other vehicles.

193.51 Audible or visible warning signal to readily indicate to the driver any lack of air sufficient to prevent the vehicle from being stopped.

E. Enforcement

For uniform enforcement, the following procedure is suggested. Action to be taken will be determined by circumstances surrounding each particular case. Citations are in order under the following conditions but are not limited thereto:

1. When vehicle or combination of vehicles lacks any braking equipment specifically required in Vehicle Code for particular type of vehicle. (Sections 670 to 670.7)
2. When measured braking distance exceeds that specified in braking distance table. (Section 670.05(a))
3. When rates of pressure-drop exceed maximum permissible values. (Section 670.05(d))
4. When any slack adjuster arm fails to move when brakes are applied, or air from brake chamber leaks around push rod. (Section 670.05(d))
5. When there are cracks in metal tubing, or when hoses to brake chambers are badly checked, swollen, worn or leaking. (Section 670.05(d))
6. When air compressor belts are loose and badly frayed or compressor does not build up pressure as recommended, allowing tolerance for additional or increased capacity reservoirs. (Section 670.05(d))

In the event excessive leakage or poor brake performance results from a mechanical or structural defect in the system, instead of a loose connection which may be immediately tightened, the defective part should be replaced or repaired at the first available service facility or the vehicle held at point of test until serious defect is eliminated. In no event should a vehicle be permitted to traverse sustained descending grades when air brake structural or mechanical defects are found to cause excessive leakage in the air brake system or when the brakes on any wheel so equipped are inoperative.

September 12, 1957

EXHIBIT C

OPERATING STATISTICS

California Public Utilities Commission as of October 1, 1957

Operating Authority

Type	*Number*
Number of permits:	
Radial highway	12,749
Highway contract	3,230
Petroleum contract	144
Household goods	1,234
City	4,210
Total permits	21,567
Number of certificates:	
Certificated common	552
Petroleum irregular	155
Total certificates	707

Type	*Number*
Number of carriers:	
Permitted	14,756
Certificated	650
Total carriers	15,406

Turnover

Period	*Permitted carriers licensed*	*Permitted carriers revoked*
1955	3150	2954
1956	2679	2472
1957 to date	1447	1845

California Intrastate Operating Revenues *

(millions of dollars)

	1955	*1956*	*1957 to date †*
Gross revenues—Truck	$508	$561	$419
Rail	100	99	68

* Based on C. P. U. C. transportation rate fund reports.
† Preliminary estimates.

Analysis of Motor Vehicle Equipment Engaged in the Transportation of Property

State P.U.C. as related to G.O. 99—Based on 1956 D.M.V. Stat. Report:

STATE (Including P.U.C.)

Type	*W/Motive power*	*Trailers*	*Total*
Regular Commercial	704,650	502,501	1,207,151
B. E.	81,762	48,299	130,061
Total	786,412	550,800	1,337,212
Exclude all:			
Power equipment under 4,000 lbs., Trailers under 3,000 lbs., House trailers, and buses. (6,442 buses)	473,564	479,242	953,122
Remainder	312,848	71,242	384,090

Comparison Between State and P. U. C. Regulation as to Equipment Engaged in Commercial Hauling

Equipment			
1. All vehicles issued P. U. C. permits	100,000 Est.	=	26.03%
Total registered vehicles of similar size and type	384,090		
2. Total power units operating under G.O. 99	20,300	=	6.49%
Total power units registered of similar size and type	312,848		
3. Total trailers operating under G. O. 99	14,700	=	20.6%
Total trailers registered of similar size and type	71,242		
4. Total vehicles operating under G. O. 99	35,000	=	9.11%
Total vehicles registered of similar size and type	384,090		

Carriers

Relation between number of for-hire carriers under G. O. 99 with those not under G. O. 99 subject to rate regulation by the P. U. C.:

Under G. O. 99 as of 1-1-57	720	= 4.72%
Total carriers issued P. U. C. permit	15,227	
Not under G. O. 99	14,507	= 95.28%
	15,227	

EXHIBIT D

MANUFACTURERS OF TRUCK AIR BRAKE COMPONENTS, BRAKE EMERGENCY DEVICES AND OTHER SAFETY EQUIPMENT

Manufacturer	*Type of product*
Abso Valve Co., Milwaukee, Wis.	Tractor breakaway protection valve
Air-Guard Valve Co., 2316 E. Eighth St., Los Angeles 21	Tractor breakaway protection valve
Bend-Westinghouse Automotive Air Brake Co., 2000 Fifth St., Berkeley	Air brake components and emergency air valves
Berg Manufacturing & Sales Co, 1712 S Michigan Blvd., Chicago 16, Ill.	Emergency air valves and electrical components
The Brimco Manufacturing Co., 1820 Industrial Rd., Salt Lake City, Utah	Auxiliary air brake emergency system (hydraulic)
E. D. Bullard Co, 275 Eighth St, San Francisco 3	Back-up safety alarms (audible)
Burdick Bros., Inc., 413 W. 165th St., Gardena	Air brake components and emergency air valves
Calumet Steel Castings Corp., 1636 Summer St., Hammond, Ind.	Safety wheel blocks (chocks)
Circle Seal Products Co., Inc, 2181 E. Foothill Blvd., Pasadena 8	Tractor breakaway protection valve
Clark Equipment Co., Axle Div., Buchanan, Mich.	Foundation brake components
Division Tire & Auto Parts, Inc, 572 S Division St., Buffalo 10, N. Y.	Emergency equipment kits (flares, flags, fire extinguishers, etc.)
Everready Emergency Brake Co, Inc, Investment Bldg., Pittsburgh 22, Pa.	Auxiliary emergency air brake system
Fawick Brake Div., Fawick Corp., 5885 Lorain St, Cleveland 2, Ohio	Auxiliary system emergency air brake (hydraulic)
Fluid Control Co, 26 E. 18th St., Chicago 16, Ill.	Automatic emergency braking equipment
George Manufacturing Co., 10-16 Harvey St., Philadelphia 44, Pa.	Air brake components
Hoppenstend Motors, Inc., 1600 Water St., Conneautville, Pa.	Emergency runaway air brake system
Keehn-o Manufacturing Co., 1709 Cleveland Ave., Santa Rosa	Auxiliary emergency air brake system
Kelsey Hayes Wheel Co., 3600 Military Ave., Detroit 32, Mich.	Vacuum and air brake components
Lee Air Line Products, Inc., 811 Airway St., Glendale 1	Emergency shut-off air valve

Manufacturer	*Type of product*
Lifeguard Products, Inc., Jefferson Bldg, Sharon, Pa.	Automatic brake fluid control (hydraulic)
Lifesaver Brake Co., 11750 Wilshire Blvd., Los Angeles 25	Auxiliary air brake system
Mack Trucks, Inc., 1745 Folsom St., San Francisco 3	Exhaust brakes (engine manifold)
Maxey Corporation, P. O. Box 3129 Terminal Annex, Los Angeles 54	Auxiliary emergency brake (parking and runaway)
MGM Brakes, Inc., Miller Bldg, Cloverdale	Auxiliary emergency brake (parking and runaway)
Midland Steel Products Co., 6660 Mt. Elliot Ave, Detroit, Mich.	Air brake components and emergency air valves
Minnesota Automotive, Inc., 1101 N. Front St., Mankato, Minn.	Auxiliary brake locks
Monroe Standard, Inc., Galion, Ohio	Air brake components
Nu-Valve Corporation, P. O. Box 1255, San Francisco 1	Emergency shut-off air valves
Orschelm Brake Lever Mfg. Co., Moberly, Mo.	Emergency brake levers (parking)
Power Brake Parts Mfg. Co., 3441 S Racine Ave., Chicago 8, Ill.	Tractor breakaway protection valve
Power Brake Equipment Co, Portland, Ore.	Air brake components and emergency air valves
Homer T. Seale, Inc., 13530 Nelson Ave, La Puente	Air brake components and emergency air valves
Sierra Precision, Inc., 925 S. Magnolia Ave, Monrovia	Reserve brake indicator (light warning system)
Simplex Manufacturing, Inc., 3300 N. San Fernando Rd., Burbank	Tractor breakaway protection valve
Sure-Stop Corporation, Inc., 483 S Broad St, Glen Rock, N J.	Emergency air brake auxiliary system
Talco Engineering Co., Inc., 2685 State St., Hamden, Conn	Emergency power (runaway) brake actuators
Velvac, Inc, 3530 W Pierce St., Milwaukee 15, Wis.	Vacuum and air brake components
Wagner Electric Corp., 6400 Plymouth Ave., St. Louis 14, Mo.	Air brake systems and controls
Warner Electric Brake & Clutch Co., Beloit, Wis.	Electric brakes and controls

EXHIBIT E

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1360

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.86 to the Vehicle Code, and to add Section 26506 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

1 SECTION 1. Section 670.86 is added to the Vehicle Code, to
2 read:
3 670.86. Low Air Pressure Warning Signal. Every motor
4 vehicle equipped with an airbrake system shall be equipped
5 with a sound alarm or a distinctive red light signal, or other
6 effective device, readily visible or audible to the driver, which
7 shall give a satisfactory warning when the air pressure drops
8 to 60 pounds or less per square inch. A gauge indicating pres-
9 sure shall not satisfy this requirement.
10 SEC. 2. Section 26506 is added to the Vehicle Code as pro-
11 posed by Assembly Bill No. 5, to read:
12 26506. Every motor vehicle equipped with an airbrake
13 system shall be equipped with a sound alarm or a distinctive
14 red light signal, or other effective device, readily visible or
15 audible to the driver, which shall give a satisfactory warning
16 when the air pressure drops to 60 pounds or less per square
17 inch. A gauge indicating pressure shall not satisfy this re-
18 quirement.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1360 as introduced, Cunningham (P. U. & C.). Low pressure warning signal for airbrakes.

Adds Sec. 670.86, Veh. C.

Requires every motor vehicle equipped with airbrakes to have a visible or audible warning device, other than a gauge indicating pressure, to indicate when air pressure drops to 60 pounds or less per square inch.

1 SEC. 3. Section 2 of this act becomes operative only if the
2 Vehicle Code as proposed by Assembly Bill No. 5 is enacted by
3 the Legislature at its 1959 Regular Session, and in such case
4 at the same time as said code takes effect, at which time Section
5 670.86 of the Vehicle Code adopted in 1935 is repealed.

O

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1361

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.85 to the Vehicle Code, and to add Section 26505 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

SECTION 1. Section 670.85 is added to the Vehicle Code, to read:

670.85. Air Pressure Gauge. The pressure gauge of every motor vehicle equipped with airbrakes shall be of reliable and satisfactory construction and maintained in an efficient working condition, accurate within five pounds, and visible to the driver at all times.

SEC. 2. Section 26505 is added to the Vehicle Code as proposed by Assembly Bill No. 5, to read:

26505. The pressure gauge of every motor vehicle equipped with airbrakes shall be of reliable and satisfactory construction and maintained in an efficient working condition, accurate within five pounds, and visible to the driver at all times.

SEC. 3. Section 2 of this act becomes operative only if the Vehicle Code as proposed by Assembly Bill No. 5 is enacted by the Legislature at its 1959 Regular Session, and in such case at the same time as said code takes effect, at which time Section 670 85 of the Vehicle Code adopted in 1935 is repealed.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1361 as introduced, Charles H. Wilson (P. U. & C.). Airbrake pressure gauge.

Adds Sec. 670.85, Veh. C.

Requires the pressure gauge of every motor vehicle equipped with airbrakes to be adequate, accurate to within five pounds, and visible to the driver.

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1362

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to amend the headings of Chapter 7 (commencing at Section 670) and Chapter 8 (commencing at Section 687) of Division 10 of, to add Article 2 (commencing at Section 670.80) to Division 10 of, and to add a chapter heading to precede Section 671 of, the Vehicle Code, and to add Article 3 (commencing at Section 26500) to Chapter 3 of Division 12 of the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes on vehicles.

The people of the State of California do enact as follows:

SECTION 1. The heading of Chapter 7 (commencing at Section 670) of Division 10 of the Vehicle Code is amended to read:

CHAPTER 7. ~~Other Equipment~~ *BRAKES*

Article 1. Generally

SEC. 2. Article 2 (commencing at Section 670.80) is added after Section 670.7 of said code, to read:

Article 2. Airbrakes

670.80. Single Valve to Operate All Brakes. Every motor vehicle equipped with airbrakes shall have the braking system so arranged that one application valve shall, when applied, operate all the service brakes on the power unit and combination of vehicles. This requirement shall not be construed to

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1362 as introduced, Cunningham (P. U. & C.). Airbrake valve.

Adds and amends various headings, adds Sec. 670.80, Veh. C.

Requires every motor vehicle equipped with airbrakes to have one valve which operates all service brakes on the combination of vehicles.

prohibit motor vehicles from being equipped with an additional valve to be used to operate the brakes on the trailer or trailers.

SEC. 3. A chapter heading is inserted to precede Section 671 of said code, to read:

CHAPTER 8. OTHER EQUIPMENT

SEC. 4. The heading of Chapter 8 (commencing at Section 687) of Division 10 of said code is amended to read:

CHAPTER ~~8~~ *9*. IDENTIFICATION OF COMMERCIAL VEHICLES

SEC. 5. Article 3 (commencing at Section 26500) is added to Chapter 3 of Division 12 of the Vehicle Code as proposed by Assembly Bill No. 5, to read:

Article 3. Airbrakes

26500. Every motor vehicle equipped with airbrakes shall have the braking system so arranged that one application valve shall, when applied, operate all the service brakes on the power unit and combination of vehicles. This requirement shall not be construed to prohibit motor vehicles from being equipped with an additional valve to be used to operate the brakes on the trailer or trailers.

SEC. 6. Section 5 of this act becomes operative only if the Vehicle Code as proposed by Assembly Bill No. 5 is enacted by the Legislature at its 1959 Regular Session, and in such case at the same time as said code takes effect, at which time Section 670.80 of the Vehicle Code adopted in 1935 is repealed.

O

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1363

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.84 to the Vehicle Code, and to add Section 26504 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

SECTION 1. Section 670.84 is added to the Vehicle Code, to read:

670.84. Air Governor Adjustment. The air governor cut-in and cut-out pressures of every motor vehicle equipped with airbrakes shall be adjusted so that the maximum pressure in the air system will not exceed 120 pounds per square inch. The minimum cut-in pressure shall not be less than 85 pounds per square inch.

SEC. 2. Section 26504 is added to the Vehicle Code as proposed by Assembly Bill No. 5, to read:

26504. The air governor cut-in and cut-out pressures of every motor vehicle equipped with airbrakes shall be adjusted so that the maximum pressure in the air system will not exceed 120 pounds per square inch. The minimum cut-in pressure shall not be less than 85 pounds per square inch.

SEC. 3. Section 2 of this act becomes operative only if the Vehicle Code as proposed by Assembly Bill No. 5 is enacted by the Legislature at its 1959 Regular Session, and in such case at the same time as said code takes effect, at which time Section 670.84 of the Vehicle Code adopted in 1935 is repealed.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1363 as introduced, Charles H. Wilson (P. U. & C.). Airbrake air governor. Adds Sec. 670.84, Veh. C.

Provides that the air governor of every motor vehicle equipped with airbrakes shall be adjusted to have a maximum cut-out pressure of 120 pounds per square inch and a minimum cut-in pressure of 85 pounds.

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1364

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.83 to the Vehicle Code, and to add Section 26503 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

1 SECTION 1. Section 670.83 is added to the Vehicle Code, to
2 read:
3 670 83. Safety Valve — Type, Capacity, Installation and
4 Adjustment. Every service brake installation actuated by
5 compressed air shall be equipped with a standard-type safety
6 valve which shall be installed so as to have an uninterrupted
7 connection with the air reservoir or tank. It shall be adjusted
8 and maintained so that it will open and discharge the air
9 system under any condition at a pressure of not to exceed 150
10 pounds per square inch and close and reseat itself at a point
11 above the maximum air governor setting. A means shall be
12 incorporated into the owner's maintenance program whereby
13 proper testing of the safety valve is accomplished at intervals
14 not greater than 12 months; and record kept thereof as a
15 permanent part of the owner's records.
16 SEC. 2. Section 26503 is added to the Vehicle Code as pro-
17 posed by Assembly Bill No. 5, to read:
18 26503. Every service brake installation actuated by com-
19 pressed air shall be equipped with a standard-type safety valve
20 which shall be installed so as to have an uninterrupted con-
21 nection with the air reservoir or tank. It shall be adjusted and

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1364 as introduced, Cunningham (P. U. & C.). Airbrake safety valve.

Adds Sec. 670.83, Veh. C.

Requires a standard-type safety valve for every air actuated vehicle service brake. Provides that the valve shall release at a pressure not to exceed 150 pounds per square inch and to close at a point above the maximum air governor setting. Provides for a yearly test and the keeping of permanent test records

1 maintained so that it will open and discharge the air system
2 under any condition at a pressure of not to exceed 150 pounds
3 per square inch and close and reseat itself at a point above the
4 maximum air governor setting. A means shall be incorporated
5 into the owner's maintenance program whereby proper testing
6 of the safety valve is accomplished at intervals not greater
7 than 12 months; and record kept thereof as a permanent part
8 of the owner's records.
9 SEC. 3. Section 2 of this act becomes operative only if the
10 Vehicle Code as proposed by Assembly Bill No. 5 is enacted
11 by the Legislature at its 1959 Regular Session, and in such case
12 at the same time as said code takes effect, at which time Section
13 670.83 of the Vehicle Code adopted in 1935 is repealed.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1365

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.82 to the Vehicle Code, and to add Section 26502 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

1 SECTION 1. Section 670.82 is added to the Vehicle Code,
2 to read:
3 670.82. Application Valve — Adjustment. The foot-oper-
4 ated brake application valve on every motor vehicle equipped
5 with airbrakes shall be so adjusted and maintained that when
6 fully depressed it will deliver within five pounds per square
7 inch of the maximum air reservoir pressure available to the
8 brake chambers on the furthermost axle.
9 SEC. 2. Section 26502 is added to the Vehicle Code as pro-
10 posed by Assembly Bill No. 5, to read:
11 26502. The foot-operated brake application valve on every
12 motor vehicle equipped with airbrakes shall be so adjusted and
13 maintained that when fully depressed it will deliver within
14 five pounds per square inch of the maximum air reservoir pres-
15 sure available to the brake chambers on the furthermost axle.
16 SEC. 3. Section 2 of this act becomes operative only if the
17 Vehicle Code as proposed by Assembly Bill No. 5 is enacted
18 by the Legislature at its 1959 Regular Session, and in such case
19 at the same time as said code takes effect, at which time Section
20 670 82 of the Vehicle Code adopted in 1935 is repealed.

LEGISLATIVE COUNSEL'S DIGEST

A B. 1365 as introduced, Charles H. Wilson (P. U. & C.). Airbrake pressure.

Adds Sec. 670.82, Veh. C.

Provides that the foot-operated brake on a motor vehicle equipped with airbrakes shall, when fully depressed, deliver within five pounds per square inch of the maximum available pressure to the furthermost brakes.

CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1366

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.81 to the Vehicle Code, and to add Section 26501 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

SECTION 1. Section 670.81 is added to the Vehicle Code, to read:

670.81. Additional Valve to Operate Trailer Brakes. When the motor vehicle is equipped with an additional valve to operate the trailer brakes only, the valve shall be so adjusted as to deliver, when fully applied, approximately two-thirds of the available air pressure in the reservoirs to the trailer brake chambers. This requirement shall not be construed as to prohibit the valve from delivering the full available air pressure at any application below normal operating range of the airbrake system.

SEC. 2. Section 26501 is added to the Vehicle Code as proposed by Assembly Bill No. 5, to read:

26501. When the motor vehicle is equipped with an additional valve to operate the trailer brakes only, the valve shall be so adjusted as to deliver, when fully applied, approximately two-thirds of the available air pressure in the reservoirs to the trailer brake chambers. This requirement shall not be construed as to prohibit the valve from delivering the full available air pressure at any application below normal operating range of the airbrake system.

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1366 as introduced, Charles H. Wilson (P. U. & C.). Trailer airbrakes.

Adds Sec. 670.81, Veh. C.

Requires every motor vehicle equipped with a valve which operates trailer brakes only to have the valve adjusted so as to be able to deliver at least two-thirds of the available air pressure to the trailer brakes.

1 SEC. 3. Section 2 of this act becomes operative only if the
2 Vehicle Code as proposed by Assembly Bill No. 5 is enacted
3 by the Legislature at its 1959 Regular Session, and in such
4 case at the same time as said code takes effect, at which time
5 Section 670.81 of the Vehicle Code adopted in 1935 is
6 repealed.

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CALIFORNIA LEGISLATURE, 1959 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 1367

Introduced by Messrs. Charles H. Wilson, Cunningham, Francis, Hawkins, and Burke

February 11, 1959

REFERRED TO COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

An act to add Section 670.87 to the Vehicle Code, and to add Section 26507 to the Vehicle Code as proposed by Assembly Bill No. 5, relating to airbrakes for vehicles.

The people of the State of California do enact as follows:

1 SECTION 1. Section 670.87 is added to the Vehicle Code, to
2 read:
3 670.87. Pneumatic System — Check Valve Required. A
4 check valve shall be installed and properly maintained in the
5 air supply piping of every motor vehicle equipped with air-
6 brakes, either between the air compressor and the first reser-
7 voir or tank immediately adjacent to the air intake of said
8 reservoir, or between No. 1 reservoir (wet tank) and No. 2
9 reservoir (dry tank) immediately adjacent to the air intake of
10 the No. 2 reservoir; provided, that the air supply for the
11 brakes is not drawn from the No. 1 reservoir and that the No.
12 1 and No. 2 reservoirs are connected by only one pipeline.
13 SEC. 2. Section 26507 is added to the Vehicle Code as pro-
14 posed by Assembly Bill No. 5, to read:
15 26507. A check valve shall be installed and properly main-
16 tained in the air supply piping of every motor vehicle
17 equipped with airbrakes, either between the air compressor
18 and the first reservoir or tank immediately adjacent to the air
19 intake of said reservoir, or between No. 1 reservoir (wet tank)
20 and No. 2 reservoir (dry tank) immediately adjacent to the
21 air intake of the No. 2 reservoir; provided, that the air supply
22 for the brakes is not drawn from the No. 1 reservoir and that

LEGISLATIVE COUNSEL'S DIGEST

A. B. 1367 as introduced, Charles H. Wilson (P. U. & C.). Airbrake check valve. Adds Sec. 670.87, Veh. C.

Provides for the installation of check valves in the air supply piping of motor vehicles equipped with airbrakes.

1 the No. 1 and No. 2 reservoirs are connected by only one
2 pipeline.
3 SEC. 3. Section 2 of this act becomes operative only if the
4 Vehicle Code as proposed by Assembly Bill No. 5 is enacted
5 by the Legislature at its 1959 Regular Session, and in such
6 case at the same time as said code takes effect, at which time
7 Section 670.87 of the Vehicle Code adopted in 1935 is re-
8 pealed.

O

REPORT OF THE SUBCOMMITTEE ON P. U. C. RATES AND OTHER GENERAL REGULATIONS

TO

ASSEMBLY INTERIM COMMITTEE ON PUBLIC UTILITIES AND CORPORATIONS

MEMBERS OF SUBCOMMITTEE

AUGUSTUS F. HAWKINS, *Chairman*

CLAYTON A. DILLS
WILLIAM F. MARSH
JAMES L. HOLMES
CHARLES H. WILSON

ROBERT S. THURN, *Consultant*
NORMA WAGGERSHAUSER, *Secretary*

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SUBCOMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON
PUBLIC UTILITIES AND CORPORATIONS
SACRAMENTO, March 9, 1959

Hon. Rex M. Cunningham, Chairman
Assembly Interim Committee on Public
Utilities and Corporations

DEAR MR CUNNINGHAM: Attached is the Report of the Subcommittee on P U. C. Rates and other General Regulations of the Assembly Interim Committee on Public Utilities and Corporations.

The report presents the results of the subcommittee study conducted on House Resolution No. 339, summarizes the testimony presented at the hearing held in San Francisco on this subject and presents the subcommittee findings and recommendations.

The committee wishes to express its appreciation to the many individuals and organizations for valued assistance in the compiling of this report.

Respectfully submitted,

AUGUSTUS F. HAWKINS, Chairman
CLAYTON A. DILLS
JAMES L. HOLMES
WILLIAM F. MARSH
CHARLES H. WILSON

HOUSE RESOLUTION NO. 339

By Mr. Munnell

Relative to an interim study of Assembly Bill No. 3837, as introduced.

Resolved by the Assembly of the State of California, That the Committee on Rules is hereby directed to assign to the Assembly Interim Committee on Public Utilities and Corporations for study the subject matter of Assembly Bill No. 3837, as introduced relating to overhead clearances for common carrier railroads; and be it further

Resolved, That the committee to which said bill is so assigned for study is hereby authorized and directed to ascertain, study and analyze all facts relative to the subject matter of said bill and to the desirability of or necessisty for legislation in that field, and to report thereon to the Assembly, including in its reports its recommendations for appropriate legislation.

PERSONS APPEARING AND TESTIFYING BEFORE THE SUBCOMMITTEE ON P. U. C. RATES AND OTHER GENERAL REGULATIONS

GEORGE W. BALLARD, Brotherhood of Railroad Trainmen

WILLIAM F. ELLIS, California Legislative Board, Brotherhood of Locomotive Firemen and Engmemen

H. L. ENGELHARDT, Superintendent, Operations Safety Section, Transportation Division, California Public Utilities Commission

R. C. NISSEN, Assistant Chief Engineer, Southern Pacific Company

JOHN R. WENDT, Secretary-Treasurer, California Railroad Association

The Subcommittee on Public Utilities Commission Rates and Other General Regulations of the Assembly Interim Committee on Public Utilities and Corporations held a hearing on House Resolution No. 339 pertaining to Asembly Bill No. 3837 on December 5, 1957, in Room 367, State Building, San Francisco, California.

REASON FOR THE INTRODUCTION OF ASSEMBLY BILL NO. 3837 AND HOUSE RESOLUTION NO. 339

Because of a subsidence problem, the U. S Army Engineers, the Los Angeles County Board of Supervisors and other agencies decided that it was necessary to widen and deepen the Domingas Channel which runs under the Anaheim Boulevard Overpass parallel with tracks of the Union Pacific Railroad It was also decided that there be retaining walls installed on both sides of the channel. Because of this work the tracks of the Union Pacific Railroad were raised approximately four feet and an overhead clearance impairment resulted. Previous to this work the overhead clearance under the overpass had been 22 feet, 6 inches and had complied with California Public Utilities Commission's General Order Number 26D.

CALIFORNIA PUBLIC UTILITIES COMMISSION ACTION RELATIVE TO THE ANAHEIM BOULEVARD OVERPASS

The California Public Utilities Commission, in its Decision No. 53614 dated August 21, 1956, allowed the Union Pacific Railroad to deviate from General Order Number 26D for a period of one year after the effective date of that decision. By the terms of Decision No. 53614, the Union Pacific was to do one of two things:

(1) to commence proceedings to secure the raising of the Anaheim viaduct to permit the clearances required by General Order Number 26D, or

(2) to make arrangements with the Southern Pacific Railroad for an interconnection whereby it will be able to bypass the Anaheim viaduct.

The California Public Utilities Commission, in its Decision No. 55895, dated December 3, 1957, continued for an indefinite time the deviation permitted by Decision No 53614. The deviation will be permitted until further order of the California Public Utilities Commission. In Decision No 55895 the Union Pacific was advised that the deviation could not become permanent and that they were expected to provide a method of service which will not require passing under impaired overhead clearances at the earliest practicable date.

POSITION OF THE BROTHERHOOD OF RAILROAD TRAINMEN

The clearances that prevail over all mainline railroad traffic in California have been changed over the years so as to give the men working on the railroad cars sufficient space to perform their duties in safety, the agreed amount of distance being seven feet above the highest railroad car that is supposed to operate under any particular overhead impairment. For the first time in the history of the safety program of the brotherhood, a clearance of three feet has been allowed to be maintained on a mainline in California They feel that the decision of the California Public Utilities Commission permitting this deviation and the decision continuing such permitted deviation has established a precedent that will be followed in the future and that legislation is necessary to set minimums for overhead clearances.

The brotherhood feels that the Union Pacific Railroad has not, in good faith, tried to comply with the conditions imposed by California Public Utilities Commission's Decision No. 53614 relative to alternate routes Representatives of the brotherhood stated that the Union Pacific, in its survey of the possibility of making interconnections with the Southern Pacific, made them so extreme and so costly that the commission did not see fit to order them to do that. The Union Pacific also proposed three alternate routes which, in the opinion of the brotherhood, were contrary to the commission's order.

POSITION OF THE CALIFORNIA LEGISLATIVE BOARD, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

Because of the fact that once an order is made on a temporary basis in many cases the carriers have referred to them as precedents, the representatives of the Brotherhood of Locomotive Firemen and Enginemen felt that a law should be enacted stating the exact requirements of railroad overhead clearances. They also felt that while the present hearing concerned a height problem, the same condition is also involved in width problems.

It was pointed out that there are many instances enroute, particularly in emergencies, where members of train crews or engine crews are required to move over the top of railroad cars. The carrier requires its employees to move over the top of railroad cars. The purpose of these walkways is to provide a safe place for the employee to walk in the performance of his duties, such as in passing signals from one member of the crew at the head of the train to a person in the middle or a person at the rear of the train. These trains at the present time are up to 100 cars long and in some cases as long as 225- to 250-car lengths. Therefore, on these trains which are anywhere from one to two and a quarter miles in length, members of the crew must be spaced so that signals can be seen from one end of the train to the other and they cannot be seen from the ground. Signals must be made from the top of the train.

It is impossible to prohibit men from occupying the top of railroad cars because of Interstate Commerce regulations and because of safety requirements the railroad carrier must comply with in order to protect its equipment. Handbrakes must be set; the handbrakes on the majority of box cars are near the top of the car so there must be access to the

top of the car in order that there be access to the brakes. It would not only be impossible to prohibit men from being on top of box cars while trains are in motion it would, in fact, be against good safety practices.

The California Legislative Board, Brotherhood of Locomotive Firemen and Enginemen, support the Brotherhood of Railroad Trainmen in asking for legislation to establish mimimum heights and widths where impaired clearances are involved.

POSITION OF THE RAILROADS RELATIVE TO CALIFORNIA PUBLIC UTILITIES COMMISSION GENERAL ORDER 26D

The proposal that seven foot clearances be provided is assumed to be the clearance between the top of a boxcar and any overhead obstruction. General Order 26D of the Public Utilities Commission now provides for a clearance of 22 feet, 6 inches above the top of rail, which is based on the operation of a maximum height boxcar of 16 feet, 6 inches, thereby leaving the seven foot clearance referred to. This order further provides that if higher cars are to be operated then the clearances shall be increased a like amount maintaining, in effect, the seven foot clearance between top of car and overhead obstruction.

Special orders of the Public Utilities Commission have been issued to various railroads for the operation of higher than 15 feet 6-inch cars over specified routes. These orders set out in detail the requirements to be met in either providing increased clearances to overhead obstructions or protecting others by telltales. The cost of making these corrections is extremely expensive, and many of the overhead obstructions are not because of any work by the railroad but may be, in many cases, public overhead structures such as highway overpasses and the like which were constructed at clearances prescribed by General Order 26D without regard to possible future requirements of the railroad: The costs of lowering track at these locations are not borne by the public bodies but become the obligation of the railroad company on its own private right-of-way.

The seven foot clearance between the top of a boxcar and overhead obstructions is based on the theory that it would give sufficient room for a man to ride the top of a car and still work safely. With the advent of the diesel locomotive, dynamic braking and better train communications brought about by the installation of radio, there is no occasion for a man to ride on top of cars in normal through service and the requirement of a seven foot clearance is an added burden and expense on the carrier and handicaps it in adapting itself to securing new business that might be offered by the automobile industry, defense programs and others.

The railroads feel the seven foot clearance requirements should not be added to the Public Utilities Code since it would restrict the powers of the commission in granting exceptions where they may be fully warranted and, rather than making clearance requirements more restrictive, consideration should be given to greater flexibility and modernizing of these regulations.

POSITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION

As a safety regulation relative to overhead clearances California Public Utilities Commission's General Order Number 26D is one of the best in the United States. The first general order relative to overhead clearances was General Order Number 26, effective January 1, 1913, establishing overhead clearances of 22 feet. Since the adoption of General Order 26, it has been revised by General Orders 26A, 26B, 26C and, as a result of conferences between the commission, the brotherhoods and railroad representatives, minimum clearances of 22 feet 6 inches were adopted in General Order Number 26D.

The reason a deviation of General Order Number 26D was permitted in Decision 53614 and the permission was continued in Decision 55895 was because the flood control engineers of Los Angeles County had stated they were working on a new proposed channel and that it might take six months to a year to reach a decision. At the same time studies were under way as to whether or not the Anaheim overpass would be raised.

It is not the intention of the commission to allow a dangerous condition to remain permanently but in this case the situation involves a branch line where there are only two train movements a day at slow speed subject to restrictions to assure safe operation.

FINDINGS OF THE SUBCOMMITTEE

1. That the decision of the California Public Utilities Commission permitting an impaired clearance at the Anaheim overpass and the decision continuing that permission is because of a local subsidence problem.

2. That when the local problem of subsidence is solved it is the intention of the California Public Utilities Commission to end the permitted deviation from General Order 26D and to require proper clearance.

3 That there must be some degree of flexibility in the matters relating to impaired clearances and that this can be best achieved by regulations of the California Public Utilities Commission.

RECOMMENDATIONS OF THE SUBCOMMITTEE

The subcommittee recommends that no legislation relative to railroad overhead clearances be enacted at this time.

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ASSEMBLY INTERIM COMMITTEE REPORT

1957-1959

VOLUME 17 NUMBER 8

AGRICULTURE

REPORT OF THE ASSEMBLY INTERIM SUBCOMMITTEE ON FAIRS AND EXPOSITIONS

House Resolution No. 236, 1957

WILLIAM W. HANSEN, *Chairman*
Assembly Interim Committee on Agriculture

MEMBERS OF THE SUBCOMMITTEE
H. W. KELLY, Chairman

WILLIAM BIDDICK, JR.
RALPH M. BROWN
SAMUEL R. GEDDES
JAMES L. HOLMES
JACK SCHRADE
GORDON H. WINTON, JR.

STAFF
C. WILLIAM QUEALE
Consultant to Committee

January, 1959

Published by the
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OF THE STATE OF CALIFORNIA

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Speaker

HON. CARLOS BEE
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HON. WILLIAM A. MUNNELL
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ARTHUR A. OHNIMUS
Chief Clerk

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LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON AGRICULTURE
ASSEMBLY CHAMBER, STATE CAPITOL
SACRAMENTO, January 5, 1959

Hon. Ralph M. Brown
Speaker of the Assembly; and
Members of the Assembly
Assembly Chamber, Sacramento

GENTLEMEN: In accordance with House Resolution No. 236, 1957 Regular Session of the California Legislature, the Assembly Interim Committee on Agriculture submits its report for the interim period.

Pursuant to House Resolution 331, a Subcommittee on Public Lands, Grazing and Forest Practices of the Assembly Interim Committee on Agriculture was created This subcommittee has not been activated during the interim period and therefore has no report to make.

Assembly Bill No. 3908, relating to the use of chemicals for control of field rodents, was referred to the full committee for interim study. Due to the lack of interest of those immediately concerned with the bill, the subject matter was not studied by the committee.

The following report is that of the Subcommittee on Fairs and Expositions of the Assembly Interim Committee on Agriculture. The report includes an explanation of the major subjects studied, together with findings and the subcommittee's recommendations, including the subject matter of Assembly Bill No. 263, relating to free admissions at state, district, county, and citrus fruit fairs; Assembly Bill No. 267, which would abolish the Board of Directors of the California State Fair; and Assembly Bill No. 374, concerning the California State Fair and Exposition.

Respectfully submitted,

WILLIAM W. HANSEN, Chairman

LETTER OF TRANSMITTAL

Subcommittee

CALIFORNIA LEGISLATURE
ASSEMBLY INTERIM COMMITTEE ON AGRICULTURE
SACRAMENTO, January 5, 1959

Hon. William W. Hansen, Chairman
Assembly Interim Committee on Agriculture
Room 3100, State Capitol

DEAR MR. HANSEN: The following is the report of the Subcommittee on Fairs and Expositions to the full committee. Matters studied are described in this report under "Scope of Report."

Your subcommittee sets forth in this report its findings and recommendations relating to the matters studied and is confident that the same will be valuable to the Legislature in its consideration of these matters.

The chairman desires to express his sincere appreciation for the co-operation he has received from the members of the subcommittee. The chairman and the committee members are grateful for the assistance and co-operation they received from witnesses appearing before the committee and to other persons who made valuable contributions to the subcommittee's report.

Respectfully submitted,

SAMUEL R. GEDDES
JAMES L. HOLMES
JACK SCHRADE
GORDON H. WINTON, JR.

H. W. KELLY, Chairman,
Subcommittee on Fairs and Expositions
WILLIAM BIDDICK, JR.
RALPH M. BROWN

SCOPE OF REPORT

The Subcommittee on Fairs and Expositions of the Assembly Interim Committee on Agriculture, created through House Resolution No. 236, studied the following subjects during the interim period 1957-1959:

a. The interim use of fair facilities between the fair times including problems of maintenance costs, types of use, charges for use, and extent of programs.
b. The problem of whether a State Fair Police Force should be created to act during the interim as well as during the State Fair.
c. The proposed development of industrial exhibits for fairs which would be moved from fair to fair.
d. Vocational education exhibits at fairs since the passage of legislation to encourage such activities.
e. The proposed organization to be known as the Future Scientists of America.
f. Results of fair visitation carried on by members of the Subcommittee.
g. The results and effect on fairs of the parimutuel clerks' strike in 1957.
h. The current relation of gate admission receipts to overall revenues to fairs.
i. The applicability of county and city ordinances to concessionaires at district fairs.
j. The general relations of fair managements with the various state agencies in regard to construction procedures, liaison agencies, and possible transfer of the Division of Fairs and Expositions to the Department of Agriculture.
k. The financial condition of the various fairs in respect to revenues and expenditures, borrowing from future state apportionment and remedies for the situation.

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FINDINGS:

A. Interim Use of Fairs.

1. Interim use is of value to both fairs and their communities and to the State, as well, by providing greater use of public-financed facilities.
2. In 1957, over 7,000,000 persons used fair facilities during the interim for a great variety of purposes.
3. Increased interim use has led to problems in recovering added costs for maintenance.
4. Future planning of fair facilities should take into account interim use needs.
5. The requirements to obtain prior approval for hazardous events from the Department of Finance may need further clarification.

B. State Fair Police Force.

1. The management of the State Fair believed it required a police force to manage during both the fair time and the interim.
2. Arguments against the proposal included the creation of the additional police force, needs for training and special facilities, and the expense.

C. Proposed Development of Industrial Exhibits for Fairs.

1. The Sixth District Agricultural Association is willing to act as a focal point for promoting touring industrial exhibits.
2. Costs of exhibits would be carried mainly by the sponsoring industry.
3. Design, construction, and transportation of exhibits would be supervised by the Sixth District Agricultural Association.

D. Vocational-Education Exhibits

1. 1957 premiums for industrial education students increased 50 percent over 1956.
2. Fair and school cooperation in this regard is increasing.
3. The intent of legislation is being carried out.

E. Future Scientists of America.

1. This new concept in programs would be similar in support and organization to the Future Farmers of America.
2. Such an organization would encourage young people interested in science.

F. Fair Visitation.

1. Nearly every fair has been visited by one or more members of the subcommittee.
2. Reports of subcommittee members indicate outstanding efforts by most fairs to educate both exhibitors and visitors.
3. In general, most fairs are clean and neat appearing.

4. Problems noted by members during their fair visits included the facilities for house trailers, building design problems, lack of receptiveness to suggestions, and need for more interested Fair Directors.

G. Parimutuel Clerks Strike.

1. The strike in the fall of 1957 caused a loss in revenues to the State of one million dollars.
2. The Fairs and Expositions Fund lost $750,000 (included in the total state loss).

H. Gate Admissions.

1. Admission charges today produce less than half as much revenue to fairs than 10 years ago.
2. Most fairs are still charging the rate in effect 10 years ago.
3. The cost of fair operations has almost doubled in the last 10 years
4. Additional income is required by the fairs.

I. Concession Licensing Problems.

1. There is uncertainty regarding the applicability of county and city ordinances for licensing, safety, fire, etc., at district fairs.
2. Recent court decisions may determine the matter.
3. The question is under consideration in the Attorney General's Office.

J. Relations of Fairs With State Agencies.

1. The Division of Architecture.
   a. Special designs completed by the Division of Architecture are more costly than "standard" designs.
   b. There is consultation between the Division of Architecture and fair managements to determine the type of building required.
   c. Costs of design become an integral part of the allocation of the project.
   d. The cost to county fairs is often less than to district fairs for architectural services.
   e. Any building not of standard design requires at least 18 months to design, bid and construct.
   f. Unless specific work orders result, the Division of Architecture is unable to perform services for fairs.
   g. Multiple-use buildings may cost as much as 50 percent above a standard fair building.
2. Liaison between fair management and state agencies.
   a. The Division of Fairs and Expositions operates in a liaison capacity with other agencies for fairs.
   b. An additional office would probably delay rather than accelerate fair business.

3. Possible transfer of the Division of Fairs and Expositions to the Department of Agriculture.
   a. The Department of Agriculture is mainly a regulatory and service agency.
   b. The addition of Fairs and Expositions would tend to de-emphasize the department's current activities.

K. Financial Condition of Fairs.

1. The cost of operation and maintenance of fair facilities in relation to income has increased to the point where it is a major problem.
2. The number of fairs with net operation expenses greater than $50,000 is increasing.
3. In 1958, 26 fairs drew advances on their apportionments totalling $730,000.
4. The value of premiums awarded grew 34 percent from 1952 to 1957.
5. The Division of Fairs and Expositions desires greater control over advancements in apportionment to fairs.
6. Interim use, fair construction costs, and general price increases have resulted in the increased expenditures.
7. Interim use expenses arising from additional maintenance and repair is not being recovered in many cases.

RECOMMENDATIONS

A. Interim Use of Fairs.

The subcommittee encourages interim activities, but recommends each fair make every effort to ensure charges for such use balance costs of maintenance and repair.

B. State Fair Police Force.

The matter of a proposed State Fair Police Force has been decided on the executive level and requires no recommendation or legislative action.

C. Proposed Development of Industrial Exhibits for Fairs.

The subcommittee believes the proposal for traveling industrial exhibits warrants further study.

D. Vocational-Education Exhibits.

Although the subcommittee does not feel further legislation is required, continued consideration of this topic to provide encouragement to the program is suggested.

E. Future Scientists of America.

As this is a new concept, there is no legislative requirement in the near future. The subcommittee urges attention to this proposed program.

F. Fair Visitation.

Fair visitation has proven valuable to each member of the subcommittee in gaining an understanding of fair problems. Recommendations arising from fair visitation can be found elsewhere in this report under appropriate subject heading.

G. Parimutuel Clerks Strike.

The subcommittee makes no recommendations in regard to this matter as it is no longer of immediate concern.

H. Gate Admissions.

The subcommittee recommends each fair should make certain gate admissions carry their share of fair costs of operation. Rates should be consistent with the need for revenue and the local situation.

I. Concession Licensing Problems.

The subcommittee believes this matter can be best solved by legal interpretation and that no new legislation is required.

J. Relations of Fairs With State Agencies.

The subcommittee does not believe that any legislative action is necessary in the matters studied.

K. Financial Condition of Fairs.

As the matter of fair finances is complex and only recently brought to the attention of the subcommittee, the subcommittee makes no specific legislative recommendations Further legislative attention is urged to produce eventual legislation where determined necessary. The subcommittee recommends that each fair make every effort to achieve a balance between revenues and expenditures.

FULL REPORT

INTERIM USE OF FAIRS

Findings

The subcommittee has found interim use of fairgrounds for community activities is valuable both to the individual fairs and their communities and to the State as well by providing greater use of public-financed facilities.

In 1957, over 7,000,000 persons used fair facilities during the interim. The interest and growth in interim activity is shown by the increase since the subcommittee's last report, which found a total of 3,800,000 persons enjoying use of fairgrounds outside the actual fair time. Interim usage plus actual paid attendance at fair time indicate in total numbers the equivalent of the entire population of California makes use of the fairs at some time during the year.

Fairgrounds and facilities are used for a great variety of purposes; from club meetings, social events, athletic events, organized activities for young people to such a unique activity as a Sunday school fair which was held in Turlock. 1957 gave evidence of increased use of fair buildings for school classrooms and recreation.

The increasing use of fair facilities in interim use has led to some problems in recovering added costs for maintenance and repair. Uniform rates are difficult to establish as rates must take into account the type of activity, sponsoring group (profit or nonprofit), and the particular fair facility used. Progress has been made, however, among the individual fair managements in arriving at equitable schedules benefiting both community and fair operation.

Information gathered by the subcommittee indicates the need for future planning regarding fair facilities. Given increasing usage over the years resulting from the expanding population of the State, fair plants should be planned to fulfill the function of a civic center in each area. If the concept of the fair as a year-around community center is to be accepted, design of fair buildings in the future should be as nearly multipurpose as possible.

The subcommittee explored the procedure by fair management to request approval from the Department of Finance for their interim events. Some difficulties appear to exist in determining what nature of events should require approval.

Recommendations

The growth of interim usage is received by the subcommittee enthusiastically. It has been the policy of the subcommittee to encourage interim activity and use wherever possible. The subcommittee recommends that each individual fair should be certain that its charges for groups using fair facilities balance the added costs of maintenance and repairs. The subcommittee does not recommend any legislation at this time.

STATE FAIR POLICE FORCE

Findings

At the request of the management of the State Fair, the subcommittee studied the possibility of a State Fair Police Force to act in the interim period, as well as during fair time.

Prior to 1956, policing during the fair time was handled by the California State Police and State Fair Guards, hired for the fair period through the Building and Maintenance Union. In 1956, the State Fair, under Chapter 3, Article 1, Section 75 of the Agricultural Code, organized its own force for the fair time However, during the interim eight civil service watchmen were used. The State Fair felt that such watchmen are inadequate with the extensive use of grounds during the interim.

The State Fair management claimed the need to have a permanent police force for interim as well as fair time. The chief objection to the former arrangement of using state police was the lack of authority over them by the fair management.

The chief arguments against the proposal included the unwise policy of organizing additional police forces, the need for training and special facilities for a separate police force, and the expense of creating a new force.

It was further asserted that the state police could send a detail to manage the interim period.

Recommendations

The matter of a proposed State Fair Police Force has been decided on the executive level and requires no recommendation or legislative action.

PROPOSED DEVELOPMENT OF INDUSTRIAL EXHIBITS FOR FAIRS

Findings

The Subcommittee on Fairs and Expositions received with interest the proposal of the Sixth Agricultural District to act as a focal point for promoting touring industrial exhibits.

The California State Museum of Science and Industry (Sixth Agricultural District) in Los Angeles recently has embarked on a program to develop industrial exhibits for the museum. Industries and industrial councils are approached to sponsor exhibits designed to tell the story of the particular industry. Financing of the exhibits is shared on a 40 percent-60 percent basis by the State and the industry. Attendance at the museum has increased substantially with the installation of such exhibits; and these exhibits have proven valuable to school children. Mr. Donald Muehmore, Executive Secretary, Sixth District Agricultural Association and Director, California State Museum of Science and Industry, in a tour of many of California's fairs, found much interest in having similar industrial exhibits during fair times.

With interest being shown by fair people and industries and with the Sixth District's experience in exhibit development, Mr Muehmore proposed the development of traveling industrial exhibits.

Advantages of touring exhibits and the museum's co-ordination of such exhibits are many. The Sixth District has dealt with industries for some time concerning the design and development of exhibits. A non-

profit association is already in existence (used for the museum's industrial exhibits) which could handle the financing of touring exhibits. Under the plans submitted by Mr. Muchmore, the Sixth District's staff would approve designs for exhibits which would then be contracted out for actual construction. In effect, the Sixth District's staff would act as the focal point to ensure quality.

When the exhibits are completed, the Sixth District would supervise and provide service for the transportation of the exhibits. Transportation costs could be shared by the industries and the fairs where the exhibits are shown. One new exhibit man and one person for the transportation function would be needed for the project by the Sixth District.

In addition, the Sixth District has proposed to exhibit some of the Museum of Science and Industry's special shows at fairs on a traveling basis.

Advantages to industries are the reduced costs of one exhibit rather than several. Industries with outside advice would be better able to put across their message and scope of activity. Greater interest, both in the fairs and exhibits, would be possible with the co-ordination of industry advertising at fair time. Resulting co-operation among the fairs and between the fairs and industries is an important facet of the program.

In summary, it is claimed that commercialism would be controlled, quality of exhibits ensured, and fairs would be able to offer more to the fair visitor.

Louis S. Merrill, General Manager, Western Fairs Association, has proposed to the subcommittee that $10,000 be appropriated to study the problem of transportation, type of exhibits and relations with industries. A proposal to study the possible development of a program such as that the Sixth District has submitted was suggested by the Western Fairs Association two years ago (see Final Report of the Subcommittee on Fairs and Expositions, 1955-1957, pp. 13-15).

Recommendations

The subcommittee believes the proposal for traveling industrial exhibits to be one worthy of consideration in the future. The subcommittee recommends further study of such a program and others of the same nature regarding feasibility, financing and general interest.

VOCATIONAL-EDUCATION EXHIBITS

Findings

One of the subjects considered by the 1955-1957 Interim Subcommittee on Fairs and Expositions was the encouragement of vocational-education student exhibits. The result of this study (see Preliminary Report of the Subcommittee, Assembly Interim Committee Report, Vol. 17, No. 5) was legislation (Chap. 319, Stat. of 1957) sponsored by the subcommittee which provided for the inclusion of industrial education exhibit premium awards in the base for apportionment of funds under Section 92 of the Agricultural Code.

Mr. William Goold, Division of Fairs and Expositions, State Department of Finance, has illustrated the increasing success of the program. In the 1957 fair season premiums offered for exhibits by industrial education students increased 50 percent over the 1956 offerings, the

year when such premiums were first offered at the initiative of the subcommittee. Mr. Goold noted that co-operation between the fairs and the schools, the prime requirements for a successful exhibition of student achievements, is improving as industrial education exhibits become a recognized part of fair activities and as exhibiting takes an accepted place in the industrial arts curriculum.

Increasing interest in this field is being shown by many concerned. The importance of the value of such programs is increasing as industry displaces agriculture in some areas.

Recommendations

The subcommittee has found the intent of legislation to encourage vocational-education programs at fairs is being carried out. Further consideration of this subject should be given to provide as much encouragement as possible to the various fairs now participating in such projects.

FUTURE SCIENTISTS OF AMERICA

Findings

Mr Theodore Rosequist, Co-ordinator, New Fair Planning, California State Fair and Exposition, presented before the subcommittee a new concept in encouraging young people's interest in scientific fields. Known as the "Future Scientists of America" the proposed organization would run parallel to the Future Farmers of America It is hoped by supporters of this movement that some federal support will be forthcoming to aid in the creation of an operating organization. The envisioned program would augment and assist existing science for youth programs as junior science fairs, junior museums, various student organizations, etc.

Recommendations

As the concept of "Future Scientists of America" was presented to chiefly inform the subcommittee of the proposed movement, no specific recommendations are required. The subcommittee believes the idea valuable from the standpoint of education and believes that in the future, California fairs can participate toward the idea's fruition. Legislative observation of the program is recommended with a possible view toward assisting in its initiation.

FAIR VISITATION

Believing that personal observation of district and county fairs is of value to the subcommittee and the Legislature to better determine problems and needs, the subcommittee has continued fair visitation during the interim period. In all, nearly every fair has been visited by one or more of the subcommittee members; one member visited some 27 fairs in 1957.

Report Card. A report card was completed by the subcommittee member for each fair visited and the collected results compared.

Reports indicate that efforts to educate exhibitors by the fair managements were generally outstanding. Several interesting methods were noted by the visiting members of the subcommittee at the various fairs. One fair assigns one of its directors to each division to insure its smooth operation. In some cases open and public judging is employed to make

ratings as fair as possible. Applications are screened to avoid duplication of types of exhibits in one district. Most of the fairs employ the use of talks during the interim period to encourage and educate both exhibitors and the general public. News releases are used as well toward the same goal. To insure interesting exhibits one fair employs a single theme throughout the fair. The above methods and many others illustrate the efforts of many fairs to ensure an interesting, well-run, and worthwhile presentation.

The report cards completed by the visiting members rated about half of the fairs visited as "excellent" in educational value, and the bulk of the remainder as "good " Several novel methods to interest and inform the public were noted by the subcommittee members. Some fairs use open judging to illustrate to the visitors the item judged and method of rating. One fair has instituted a "Safety Lane" sponsored by the Highway Patrol, fire department, etc., to illustrate the importance of safety and accident prevention. Many of the fairs in California require each exhibitor to have a person on the grounds at all times to answer questions and discuss the exhibit. Some fairs assign directors to aid the visitor in his time at the fair. The above methods and others, coupled with educational exhibits, are designed to make the "trip to the fair" as worthwhile as possible.

The subcommittee members when possible endeavored to assess fair facilities and appearance of the grounds. Thirty-five of 39 fairs rated were found to have adequate benches for fair visitors. Thirty-five fairs were found to be generally clean and seven as unclean; eight fairs did not have clean livestock barns. Nearly all of the fairs were considered to have sufficient trash cans on the grounds.

Suggestions Arising From Visitation. Members of the subcommittee in visiting the various district and county fairs found several potential problems.

A growing problem concerns the parking of trailers on fairgrounds during fairtime. In some cases additional sanitary facilities are needed. Inadequate provision for trailers leads to overcrowding of grounds and reduction of usable space for the fair. Rates for parking trailers are of concern as well, as the fair should be compensated for costs arising from trailer parking, i.e., utilities, space, etc. Of 35 fairs visited by subcommittee members, 26 fairs had trailers on their grounds during fairtime. Of these, five had some charge for trailer parking, 18 did not charge, and three are not known. Numbers of trailers parked on grounds varied from two to more than 100. Five fairs had less than six trailers on the grounds, nine had from 6 to 25, eight had from 25 to 50, and four had over 50 trailers.

Fair visitation has indicated building design problems (see below in this report) both for interim use and for the comfort of fairgoers at fairtime.

Lack of receptiveness on the part of fair managements to suggestions by members of the subcommittee has been noted in some cases.

Several suggestions from various fair managements were received in the course of visitations. These suggestions include: more state financing for arts, crafts, and hobbies; unified interpretation of fairs and expositions laws; more authority for local fair boards; more recognition of the need to shift emphasis from agriculture to industry;

better classification of fairs; clarification of the application of local ordinances to fairs; insufficient premium money; "stock" buildings inadequate; the establishment of a branch office of the Division of Fairs and Expositions in Los Angeles; provision for "schooling" for managers; better information to the public concerning the availability of fairgrounds for interim use; and the establishment of uniform regulations governing "passes" to all fairs.

The board of directors of a district fair is presently appointed by the Governor. The proposal has been made to have them locally appointed to achieve a greater local control in fair management. The State Fair Board, it is noted, has only one representative from agriculture. Greater agricultural representation has been suggested to the subcommittee.

Comment. The subcommittee has found through its visitation that fair moneys provided by the State are generally being spent in a very wise and economical manner. Fairs bring to millions of people industrial development, exhibits, and other ideas which are helping California as a whole. To a great extent the fairs have kept pace with the growth of this State.

Recommendations

The subcommittee feels that visitations have been valuable to committee members in observing the operation of fairs, in obtaining a firsthand knowledge of problems, and in determining the methods in which state apportionment and assistance are being used.

No specific recommendations are applicable regarding fair visitation as many of the observations made and problems uncovered have been discussed as major topics in subcommittee hearings and can be found summarized elsewhere in this report. The subcommittee feels that organized fair visitation by committee members should be undertaken periodically.

PARIMUTUEL CLERKS STRIKE

Findings

The subcommittee in October, 1957, heard testimony regarding the strike of parimutuel clerks and its effect upon fair income. Although the problem was referred to the Committee on Horse Racing of the Senate, the Assembly Subcommittee on Horse Racing of the Interim Committee on Governmental Efficiency and Economy, and the Subcommittee on Fairs and Expositions of the Assembly Interim Committee on Ways and Means, the matter had definite reference to fairs and expositions.

The losses in revenue to the State as a result of the strike were estimated at one million dollars, with a loss to the Fairs and Expositions Fund of $750,000. The implications are great in such losses of income to those state-sponsored activities dependent in whole or in part on horse-racing revenues.

Recommendations

In view of the fact that this matter is no longer of immediate concern, the subcommittee makes no recommendations and considers this to be a closed matter.

GATE ADMISSIONS

Findings

The Gate Admission Study Committee of the Western Fairs Association has found that admission charges today produce less than half as much revenue to fairs than 10 years ago. In 1947, admission charges produced 28 percent of the total revenue of fairs; by 1957 this total was only 12 percent. Although the general price level and the level of admission prices to various types of events have increased markedly over the past years, most fairs are still charging the front gate admission fee of 50 cents in force 10 years ago.

The cost of fair operation almost doubled in the period 1948-1956 due partly to the general rise in the price level, but mainly to the increased activities of all fairs. The expansion of fair operation is shown by the increase in the number of entries. In 1948, entries totaled 170,000; in 1956, 378,000. The net increase of 208,000, when projected at an estimated average cost per entry of $4.25, represents an additional operating cost of $884,000 per year to the fairs. Total entries by youth groups in the junior division classes has increased as well, from 16,500 in 1950 to 29,000 in 1957, representing an increase in operating costs of $53,000 per year.

The Gate Admission Study Committee in its testimony presented to the Subcommittee on Fairs and Expositions indicated the need for additional income and recommended that those fairs which have not as yet adjusted their gate admission prices to accommodate the rising cost of general operation give serious thought to the possibility of increasing their revenue by increasing their gate admission prices.

Recommendations

As revenue from gate admission affects directly the financial condition of each fair, the subcommittee feels that consideration and examination be given to admission rates by the management of each fair. The subcommittee realized uniform statewide rates cannot be determined because of local situations. However, in view of the financial problems of some fairs (see "Financial Condition of Fairs" in this report), gate admissions must be able to carry their share of the costs of operation.

CONCESSION LICENSING PROBLEMS

Findings

Some uncertainty seems to exist regarding the applicability of county and city ordinances for licensing, safety, fire, etc., at district fairs. Recent court decisions may perhaps determine the situation in such a way that state regulations only are applicable. The question is under consideration by the Attorney General's Office. It was further suggested to the subcommittee that a legislative definition of what constitutes a "fair" would be useful to concessionaires in determining what licenses apply to them.

Recommendations

It is the feeling of the subcommittee that a determination of this matter by the courts is preferable to legislative action at this time. There is need for clarification of authority and for standardization of regulations to ensure equal treatment to all concerned. Further observation and study of this problem by the Legislature is recommended.

RELATIONS OF FAIRS WITH STATE AGENCIES

Findings

At a meeting of the subcommittee in Sacramento in September, 1958, several questions were raised as to the method and efficiency with which fair managements were met when doing business with the various state departments. A hearing to explore existing procedures was held at the Fresno District Fairgrounds in October.

Relations of Fairs With the Division of Architecture: In answer to the question whether greater variety of design could be employed in constructing fair buildings, Mr. Donald Van Riper, Supervising Landscape Architect, Division of Architecture, stated that such "imagineering" of design is possible but, in general, costs limit the development of unique designs. Special designs recently completed by the division indicate the probability that costs will increase with variations in designs.

The Division of Architecture, which designs structures for the district fairs only, employs standard plans where possible. In some cases standard plan buildings, such as administration buildings, are fitted to local needs and setting to the extent that in other than the same basic plan they are not actually "standard " In actuality, basic requirements for many of the fair buildings dictate a certain amount of similarity. Similarity is minimized as much as possible in exterior appearance because of the number of visitors who attend more than one fair.

Consultation between the individual fair management and the Division of Architecture is carried on to determine the needs and desires of the fair regarding proposed structures. Conferences continue as design and study progress. At the proper stage, preliminary estimates of costs are made by the division. Following the approval by the client of preliminary designs, the Department of Finance and the Division of Fairs and Expositions are consulted as to the method of finance. Final specifications suitable to advertise for bids are then drawn up.

The costs of design become an integral part of the individual allocation of the project. Money from the Division of Fairs and Expositions is transferred to the Division of Architecture to cover the costs of preliminary work on designs under a "general" work order. When the cost of a project is determined, a "letter of understanding" is submitted to the particular fair and the Division of Fairs and Expositions. This is the basis for formal transfer of funds to cover the cost of construction to the Division of Architecture. A 2 percent reserve to cover costs of supervision is included. In general, costs of design run about 7 to 8 percent of the building costs. Special designs cost up to 2-2¼ percent more than standard designs.

The cost to county fairs for architectural services often is less than to district fairs. The reason, according to Mr. W. C. Woxberg, Secretary-Manager, Merced County Fair, is they are able to hire their own private architects.

The problem of the length of time required to complete construction projects handled through the Division of Architecture was studied by the subcommittee. According to Mr. Van Riper, any building not of standard design costing more than $100,000 required at least 18 months to design, bid and construct. Projects handled by the Division of Archi-

tecture for fairs are generally geared to the opening date of the particular fair. Some projects may be slowed down within the division because of periodic shortages of staff in some phases of design. Slowness due to lack of personnel was also noted by Mr. Bates T. Bowers, Secretary-Manager, Kings County Fair, in those projects handled by the Engineering Section of the Division of Fairs and Expositions (under $50,000 in cost).

The Division of Architecture's service for fairs in working on changeable building facades, traffic flow patterns, etc., is limited by the complications in costs. Unless some specific work order results, the division is unable to perform such services.

Mr. Van Riper stated a better presentation of ideas and needs by the fairs to the Division of Architecture at the outset of initiating a project would accelerate procedures and the eventual completion date of the project. Although no private architects can be hired by the district fairs, which are state agencies, architects to assist in developing plans to present to the division can donate time or perhaps be made members of the fair boards.

In view of increasing use of fair facilities in many areas during the interim period for a variety of activities, there is considerable interest in the design for multiple purpose use. The design of multiple-use buildings, by the Division of Architecture, is governed by policy and costs. According to Mr. Van Riper, the costs of a building could easily be increased by 50 percent including items as heating, kitchens, and other additional facilities not required for fair exhibit use only.

Liaison Between Fair Management and State Agencies. At the September, 1958, meeting of the subcommittee, the possibility of creating an office to help fair management deal with the state agencies was suggested. Accordingly, the subcommittee examined the proposal at its October meeting.

According to Mr. A. E. Snider, the Division of Fairs and Expositions operates in this capacity in dealing with the Bureau of Purchases, the Division of Architecture, the Legal Division, and the Office of the Fire Marshal. The creation of an "expediter" for fair business would merely be another step, Mr. Snider asserted, thus slowing rather than aiding fairs in their business with state agencies. Delays may be due in part to the lack of awareness on the part of some fair managements.

Possible Transfer of the Division of Fairs and Expositions to the Department of Agriculture. In efforts to find some way in which fair business with the State might be run more smoothly, the subcommittee explored the possibility of the transfer of the Division of Fairs and Expositions to the Department of Agriculture.

Mr. Charles V. Dick, Assistant Director, Department of Agriculture, indicated that his department is primarily a regulatory and service agency that engages in the prevention of the introduction and spread of crop and livestock pests, inspection, and marketing aids. The addition of fairs and expositions to this department would not only be a new sort of function for the agency, but in view of the fact that its current budget is $9,000,000, the department would have to create a new division of such size that it would tend to de-emphasize the department's current activities.

Recommendations

The subcommittee does not believe that any legislative action is required in the above matters concerning the relations between fairs and state agencies. However, it is recommended that further study be given to the problem as to whether or not the Division of Architecture should continue to design buildings for the fairs.

FINANCIAL CONDITION OF FAIRS

Findings

The subcommittee has explored the general areas of fair finances at hearings held in Fresno and Los Angeles.

Mr. A. E. Snider, Chief, Division of Fairs and Expositions, Department of Finance, in his statements before the subcommittee, indicated that the costs of operation and maintenance of fair facilities in relation to income has increased to the point where it is a major problem. To support his statement, he submitted the following figures which indicate that in a five-year period, income to fairs had only increased 4 percent, while operational costs had grown 30 percent.

FAIR INCOME AND OPERATIONAL EXPENSES

	1952	*1957*	*Percent change*
State moneys ($65,000 per fair to 72 fairs)	$4,680,000	$4,680,000	--
Revenue from fairs (Excluding state apportionment)	3,773,900	3,929,100	4
Total	$8,453,900	$8,609,100	4
Amount for operational expenditures	$6,142,600	$7,988,600	30
Amount remaining for capital outlay	$2,311,300	$610,500	—74

Figures compiled by the Division of Fairs and Expositions (through 1957) indicate that the number of fairs is increasing whose net operation expenses (expenditures less revenue, other than apportionment) are greater than $50,000. In 1950, six fairs had net operation expenses of more than $50,000; in 1955, 37 fairs; in 1956, 36 fairs; and in 1957, 46 fairs. Net operation expenses, over and above revenue, are covered by annual opportionment from the State, currently $65,000 per fair. However, each fair in the division's view, should maintain at least $15,000 in reserve for any extraordinary maintenance or repair. In view of this, at least 46 fairs in 1957 probably did not maintain adequate reserves and 14 of those actually had deficits even after apportionment. (More fairs may have had deficits as more than 14 fairs have borrowed on apportionments in advance, as indicated below.) In some cases deficits are made up by other public agencies, such as counties, etc.

From the above, the financial condition of some fairs does not appear to be good. This is further shown by fairs borrowing on future apportionments. Under the law, any portion of the yearly apportionment can be advanced to a fair. According to Mr. Snider, twice as many

fairs drew twice the amount of money in advance in 1957 as in 1952. In 1952, 16 fairs drew advances of $382,100; in 1957, 27 drew $757,400; and in 1958, some 26 fairs drew advances, totalling about $730,000. One fair drew the full amount of its 1959 apportionment in 1958, and thus will receive no state moneys until 1960.

The increases in fair facility construction has led to more premium expenditures. In 1952, $1,314,900 was paid out; in 1957, $1,765,300, or $450,400 more than in 1952 for a 34 percent increase.

For the subcommittee's benefit, Mr. Snider discussed the possible methods to solve the financial problems of fairs. Increases in state allocations, according to him, may have little benefit for the more poorly managed fairs.

Advances could be curtailed as they were allowed originally chiefly for the purpose of getting the fairs started. This policy is favored by the Division of Fairs and Expositions. A statutory standard not permitting a fair to expand unless meeting certain financial requirements may be useful and indicated by the situation. In addition, it has been suggested to have a greater state control over fair budgets. Budgets might possibly be tied to attendance and revenue figures for the preceding year. Reduction in the number of free passes, as well, might help the financial condition of some fairs.

Mr. Robert Stein, Assistant Manager, Western Fairs Association, indicated to the subcommittee several reasons why fair costs have increased so markedly over the past years. Building costs, he asserted, have risen some 50 percent since 1948. In addition, interim use of fair facilities which was virtually nonexistent in 1948 is now over 6,000,000 persons per year, thus raising the maintenance costs over the year. In effect, Mr. Stein concluded, fairs have not had a dollar to spend to make a dollar.

The factor of the bearing of interim costs enters the overall problems of fair construction and finance. Pressures by communities for low rates indicate that in general fairs are not recuperating the costs for interim usage.

Recommendations

As this problem regarding the financial situation of fairs is complex and was brought before the subcommittee late in the interim period, the subcommittee as a whole does not recommend any specific legislation. The matter, however, is sufficiently important and of such possible urgency that the subcommittee urges legislative attention to the problem for study to produce eventual legislation where determined necessary.

The subcommittee strongly believes that it is the responsibility of each individual fair to maintain itself financially sound. A better balance between revenues and expenditures should be achieved by whatever method is feasible for each fair. Gate admissions should be raised when possible, realistic rates for interim use charged, and the number of free passes limited The subcommittee concurs with the view of the Division of Fairs and Expositions in recommending a cutback in operation if revenues and expenditures cannot be brought into balance. Above all, the subcommittee does not approve of the dependence upon the use of future state allocations to operate current programs.

APPENDIX

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

POPULATION AND ATTENDANCE

Fair	*Location*	*Population of county or district July 1, 1957*	*Paid admissions to grounds 1957*	*Free admissions to grounds 1957*	*Total admissions to grounds 1957*	*Total admissions as percent of population*		
						1957	*1956*	*1955*
22d District	Del Mar	897,600	176,755	55,253	232,008	26	27	30
1st District	Oakland	873,500	74,194	600	74,794	9	4	9
Alameda County	Pleasanton	873,500	–	300,000	300,000	34	42	28
San Francisco County	San Francisco	777,300	–	28,000	28,000	4	3	3
51st District	Northridge	641,500	49,693	16,850	66,543	10	13	4
Santa Clara County	San Jose	531,300	113,446	93,211	206,657	39	43	43
32d District	Costa Mesa	520,000	57,479	43,144	100,623	19	26	14
28th District	Victorville	442,400	13,071	22,019	35,090	8	7	8
52d District	Sacramento	429,100	15,667	24,282	39,949	9	9	14
San Mateo County	San Mateo	379,400	59,130	27,766	86,896	23	23	23
23d District	Antioch	356,100	16,590	15,200	31,790	9	9	7
21st District	Fresno	336,300	164,126	93,315	257,441	77	78	91
15th District	Bakersfield	272,800	85,591	91,759	177,350	65	63	66
4th District	Petaluma	271,100	11,000	16,866	27,866	10	8	4
46th District	Hemet	243,400	14,356	17,187	31,543	13	9	9
Riverside County	Indio	243,400	92,398	69,792	162,190	67	50	41
2d District	Stockton	237,500	77,661	29,955	107,616	45	44	46
San Joaquin County	Lodi	237,500	32,188	8,509	40,697	17	20	17
7th District	Monterey	186,900	37,515	17,967	55,482	30	23	26
Monterey County	King City	186,900	6,162	10,334	16,496	9	9	10
31st District	Ventura	164,600	50,806	24,735	75,541	46	53	52
38th District	Turlock	147,800	66,770	13,247	80,017	54	60	54
24th District	Tulare	147,600	52,543	47,573	100,116	68	68	64
Sonoma County	Santa Rosa	141,500	79,967	62,113	142,080	100	72	100
Marin County	Ross	129,600	21,144	4,350	25,494	20	19	15
36th District	Dixon	118,600	3,384	9,010	12,394	10	18	15
Solano County	Vallejo	118,600	48,822	51,157	99,979	84	89	78
9th District	Eureka	98,800	7,398	8,707	16,105	16	19	19
Humboldt County	Ferndale	98,800	23,035	15,860	38,895	39	33	34
35th District	Merced	86,400	50,194	16,837	67,031	78	81	84
Merced County	Los Banos	86,400	18,515	18,220	36,735	43	38	29
19th District	Santa Barbara	78,000	–	17,607	17,607	23	20	21

3d District	Chico	72,300	28,224	21,788	50,012	69	66	72
Butte County	Gridley	72,300	13,520	10,409	23,929	33	33	28
14th District	Watsonville	70,200	18,157	6,400	24,557	35	39	39
45th District	Imperial	69,800	32,441	14,010	46,451	67	84	62
16th District	Paso Robles	62,300	19,414	14,732	34,146	55	59	47
25th District	Napa	61,400	25,613	21,750	47,363	77	69	68
Napa County	Calistoga	61,400	6,840	5,675	12,515	20	18	20
50th District	Lancaster	58,200	45,973	10,869	56,842	98	120	96
13th District	Yuba City	56,700	19,327	5,352	24,679	44	22	31
40th District	Woodland	56,400	–	54,000	54,000	96	98	95
12th District	Ukiah	55,400	11,883	9,089	20,972	38	19	27
Mendocino County	Boonville	55,400	3,110	3,200	6,310	11	8	7
20th District	Auburn	49,900	8,428	14,469	22,897	46	28	28
Placer County	Roseville	49,900	13,331	5,495	18,826	38	35	27
27th District	Anderson	49,100	–	47,259	47,259	96	96	102
Shasta County	McArthur	49,100	–	6,200	6,200	13	13	15
24-A District	Hanford	46,900	21,626	3,630	25,256	54	52	55
21-A District	Madera	38,600	12,966	10,830	23,796	62	69	73
Madera County	Chowchilla	38,600	16,849	16,417	33,266	86	84	79
37th District	Santa Maria	38,400	31,391	15,638	47,029	122	107	101
10th District	Yreka	27,000	–	19,000	19,000	70	73	66
30th District	Red Bluff	22,000	10,404	7,063	17,467	79	51	75
El Dorado County	Placerville	20,200	7,474	7,209	14,683	73	105	95
41st District	Crescent City	19,500	8,713	1,156	9,869	51	58	61
17th District	Grass Valley	18,200	22,066	–	22,066	121	122	125
42d District	Orland	17,000	15,185	8,750	23,935	141	148	149
33d District	Hollister	15,300	–	34,400	34,400	225	217	245
San Benito County	Hollister	15,300	–	7,176	7,176	47	34	34
29th District	Sonora	14,900	6,640	7,350	13,990	94	82	127
18th District	Bishop	14,700	14,239	7,915	22,154	151	150	115
Lassen County	Susanville	14,400	–	25,024	25,024	174	159	141
44th District	Colusa	11,700	7,589	8,439	16,028	137	137	128
Plumas County	Quincy	11,700	10,600	9,287	19,887	170	167	140
49th District	Lakeport	11,500	9,915	2,099	12,014	104	95	81
39th District	Angels Camp	9,400	9,410	4,845	14,255	152	211	190
26th District	Plymouth	9,000	6,985	5,336	12,321	137	125	119
Trinity County	Hayfork	8,100	2,760	3,840	6,600	81	93	92
34th District	Cedarville	7,700	–	10,500	10,500	136	152	129
10-A District	Tulelake	5,600	–	12,095	12,095	216	212	178
35-A District	Mariposa	4,400	7,480	5,751	13,231	301	278	246

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

PAID AND FREE ATTENDANCE

Fair	Location	Population of county or district July 1, 1957	Paid admissions to grounds 1957	Free admissions to grounds 1957	Total admissions to grounds 1957	Free admissions as percent of total admissions 1957	1956	1955
22d District	Del Mar	897,600	176,755	55,253	232,008	24	22	20
1st District	Oakland	873,500	74,194	600	74,794	1	5	5
Alameda County	Pleasanton	873,500	--	300,000	300,000	100	100	100
San Francisco County	San Francisco	777,300	--	28,000	28,000	100	100	100
51st District	Northridge	641,500	49,693	16,850	66,543	25	30	6
Santa Clara County	San Jose	531,300	113,446	93,211	206,657	45	46	40
32d District	Costa Mesa	520,000	57,479	43,144	100,623	43	37	22
28th District	Victorville	442,400	13,071	22,019	35,090	63	54	51
52d District	Sacramento	429,100	15,667	24,282	39,949	61	45	100
San Mateo County	San Mateo	379,400	59,130	27,766	86,896	32	33	39
23d District	Antioch	356,100	16,590	15,200	31,790	48	37	41
21st District	Fresno	336,300	164,126	93,315	257,441	36	32	37
15th District	Bakersfield	272,800	85,591	91,759	177,350	52	51	53
4th District	Petaluma	271,100	11,000	16,866	27,866	61	47	12
46th District	Hemet	243,400	14,356	17,187	31,543	55	15	13
Riverside County	Indio	243,400	92,398	69,792	162,190	43	41	24
2d District	Stockton	237,500	77,661	29,955	107,616	28	26	20
San Joaquin County	Lodi	237,500	32,188	8,509	40,697	21	7	4
7th District	Monterey	186,900	37,515	17,967	55,482	32	20	28
Monterey County	King City	186,900	6,162	10,334	16,496	63	64	75
31st District	Ventura	164,600	50,806	24,735	75,541	33	33	35
38th District	Turlock	147,800	66,770	13,247	80,017	17	24	21
24th District	Santa Rosa	141,500	52,543	47,573	100,116	48	47	41
Sonoma County	Santa Rosa	141,500	79,967	62,113	142,080	44	18	50
Marin County	Ross	129,600	21,144	4,350	25,494	17	28	11
36th District	Dixon	118,600	3,384	9,010	12,394	73	58	52
Solano County	Vallejo	118,600	48,822	51,157	99,979	51	46	51
9th District	Eureka	98,800	7,398	8,707	16,105	54	57	58
Humboldt County	Ferndale	98,800	23,035	15,860	38,895	41	22	16
35th District	Merced	86,400	50,194	16,837	67,031	25	23	23
Merced County	Los Banos	86,400	18,515	18,220	36,735	50	43	47
19th District	Santa Barbara	78,000	--	17,607	17,607	100	100	100

3d District	Chico	72,300	28,224	21,788	50,012	44	46	50
Butte County	Gridley	72,300	13,520	10,409	23,929	44	43	31
14th District	Watsonville	70,200	18,157	6,400	24,557	26	25	12
45th District	Imperial	69,800	32,441	14,010	46,451	30	38	14
16th District	Paso Robles	62,300	19,414	14,732	34,146	42	43	48
25th District	Napa	61,400	25,613	21,750	47,363	46	39	36
Napa County	Calistoga	61,400	6,840	5,675	12,515	45	48	25
50th District	Lancaster	58,200	45,973	10,869	56,842	19	17	29
13th District	Yuba City	56,700	19,327	5,352	24,679	22	100	12
40th District	Woodland	56,400	--	54,000	54,000	100	100	100
12th District	Ukiah	55,400	11,883	9,089	20,972	43	28	45
Mendocino County	Boonville	55,400	3,110	3,200	6,310	51	13	9
20th District	Auburn	49,900	8,428	14,469	22,897	63	46	44
Placer County	Roseville	49,900	13,331	5,495	18,826	29	32	32
27th District	Anderson	49,100	--	47,259	47,259	100	100	100
Shasta County	McArthur	49,100	--	6,200	6,200	100	100	100
24-A District	Hanford	46,900	21,626	3,630	25,256	14	7	11
21-A District	Madera	38,600	12,966	10,830	23,796	46	49	44
Madera County	Chowchilla	38,600	16,849	16,417	33,266	49	49	51
37th District	Santa Maria	38,400	31,391	15,638	47,029	33	25	27
10th District	Yreka	27,000	--	19,000	19,000	100	100	100
30th District	Red Bluff	22,000	10,404	7,063	17,467	40	16	24
El Dorado County	Placerville	20,200	7,474	7,209	14,683	49	32	36
41st District	Crescent City	19,500	8,713	1,156	9,869	12	1	32
17th District	Grass Valley	18,200	22,066	--	22,066	0	0	0
42d District	Orland	17,000	15,185	8,750	23,935	37	43	40
33d District	Hollister	15,300	--	34,400	34,400	100	100	100
San Benito County	Hollister	15,300	--	7,176	7,176	100	100	100
29th District	Sonora	14,900	6,640	7,350	13,990	53	22	57
18th District	Bishop	14,700	14,239	7,915	22,154	36	29	16
Lassen County	Susanville	14,400	--	25,024	25,024	100	100	100
44th District	Colusa	11,700	7,589	8,439	16,028	53	50	49
Plumas County	Quincy	11,700	10,600	9,287	19,887	47	44	48
49th District	Lakeport	11,500	9,915	2,099	12,014	18	16	15
39th District	Angels Camp	9,400	9,410	4,845	14,255	34	33	30
26th District	Plymouth	9,000	6,985	5,336	12,321	43	49	48
Trinity County	Cedarville	8,100	2,760	3,840	6,600	58	59	67
34th District	Hayfork	7,700	--	10,500	10,500	100	100	100
10-A District	Tulelake	5,600	--	12,095	12,095	100	100	100
35-A District	Mariposa	4,400	7,480	5,751	13,231	44	47	46

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

REVENUE RELATED TO ATTENDANCE

Fair	*Location*	*Reported admissions to grounds 1957*	*Revenue related to attendance 1957*	*Revenue per admission related to attendance 1957*	*Expenditures to attract attendance 1957*	*Expenditures per admission to attract attendance 1957*	*Net revenue per admission 1957*	*Net revenue per admission 1956*	*Net revenue per admission 1955*
Alameda County	Pleasanton	300,000	$549,548	$1.83	$402,465	$1.34	$0.49	$0.44	$0.47
21st District	Fresno	257,441	464,869	1.81	193,398	.75	1.06	.87	.79
22d District	Del Mar	232,008	318,880	1.37	105,941	.46	.91	.79	.77
Santa Clara County	San Jose	206,657	172,322	.84	49,268	.24	.60	.59	63
15th District	Bakersfield	177,350	87,100	.49	14,227	.08	.41	.41	.39
Riverside County	Indio	162,190	142,741	.88	29,178	.18	.70	.72	.85
Sonoma County	Santa Rosa	142,080	356,096	2 51	233,046	1 64	.87	1.31	86
2d District	Stockton	107,616	340,208	3.16	231,697	2 15	1.01	1 04	82
32d District	Costa Mesa	100,623	98,647	.98	33,509	.33	.65	.62	1.29
24th District	Tulare	100,116	58,445	.58	20,639	.21	.37	.41	42
Solano County	Vallejo	99,979	313,810	3.14	238,388	2.38	.76	.93	.77
San Mateo County	San Mateo	86,896	502,517	5.78	404,332	4.65	1.13	1.03	95
38th District	Turlock	80,017	54,018	.68	11,699	.15	.53	47	.48
31st District	Ventura	75,541	70,944	.94	17,601	23	.71	.69	.57
1st District	Oakland	74,794	125,756	1.68	19,439	.26	1.42	1.04	1 31
35th District	Merced	67,031	48,704	.73	19,234	.29	.44	.44	.36
51st District	San Fernando	66,543	61,221	.92	18,873	.28	.64	.52	.85
50th District	Lancaster	56,842	64,287	1.13	19,595	.34	.79	.77	.70
7th District	Monterey	55,482	61,777	1.11	24,493	.44	.67	.88	94
40th District	Woodland	54,000	21,164	.39	12,894	.24	.15	.14	13
3d District	Chico	50,012	32,277	.65	12,374	.25	.40	24	.26
25th District	Napa	47,363	31,349	.66	16,893	.36	.30	.34	.38
27th District	Anderson	47,259	12,545	.27	7,379	.16	.11	.11	.07
37th District	Santa Maria	47,029	42,323	.90	13,535	.29	.61	.76	.61
45th District	Imperial	46,451	63,313	1.36	30,413	.65	.71	.58	73
San Joaquin County	Lodi	40,697	22,651	.56	17,709	.44	.12	.20	.16
52d District	Sacramento	39,949	13,440	.34	11,150	.28	.06	.11	—01
Humboldt County	Ferndale	38,895	83,556	2.15	68,140	1 75	.40	.36	.68
Merced County	Los Banos	36,735	20,439	.56	21,246	.58	—.02	—.03	.01
28th District	Victorville	35,090	20,004	.57	12,735	.36	.21	.23	.27
33d District	Hollister	34,400	1,506	.04	2,669	.08	—.04	.02	—.02

16th District	Paso Robles	34,146	27,686	.81	15,763	.46	.35	.35	.26
Madera County	Chowchilla	33,266	14,238	.43	11,961	36	.07	—01	—03
23d District	Antioch	31,790	35,300	1.11	22,556	.71	.40	.46	.38
46th District	Hemet	31,543	19,085	.61	11,515	.37	24	.42	35
San Francisco County	San Francisco	28,000	–	–	449	.02	—02	—.02	.00
4th District	Petaluma	27,866	12,557	.45	10,605	.38	.07	13	.01
Marin County	Ross	25,494	16,328	64	5,425	.21	.43	.34	.44
24-A District	Hanford	25,256	21,263	.84	8,850	.35	.49	.65	55
Lassen County	Susanville	25,024	17,207	.69	14,671	.59	.10	.08	—.05
13th District	Yuba City	24,679	23,733	.96	16,940	.69	.27	—.14	.38
14th District	Watsonville	24,557	24,833	1.01	11,460	.47	.54	.60	.49
42d District	Orland	23,935	15,156	.63	12,063	.50	.13	.00	.01
Butte County	Gridley	23,929	17,648	.74	14,609	.61	.13	.22	.21
21-A District	Madera	23,796	11,212	.47	8,303	.35	.12	19	23
20th District	Auburn	22,897	8,330	.36	8,103	.35	.01	—.06	.08
18th District	Bishop	22,154	13,860	.63	8,510	.38	.25	.23	34
17th District	Grass Valley	22,066	8,108	.37	5,821	.26	.11	.20	.16
12th District	Ukiah	20,972	13,403	.64	9,348	.45	.19	.51	.37
Plumas County	Quincy	19,887	25,068	1.26	20,139	1 01	.25	.28	.38
10th District	Yreka	19,000	9,649	.51	8,932	.47	.04	.08	07
Placer County	Roseville	18,826	15,611	83	14,879	.79	.04	.24	19
19th District	Santa Barbara	17,607	41,992	2.38	16,828	.96	1.42	1.87	1.90
30th District	Red Bluff	17,467	7,494	.43	7,295	.42	.01	02	.07
Monterey County	King City	16,496	10,880	.66	6,868	.42	.24	.24	.11
9th District	Eureka	16,105	18,726	1.16	20,726	1.29	—.13	.04	.16
44th District	Colusa	16,028	8,516	.53	9,113	.57	—.04	.05	08
El Dorado County	Placerville	14,683	12,263	.84	10,389	71	.13	.28	.25
39th District	Angels Camp	14,255	18,303	1.28	19,485	1 37	—.10	25	.20
29th District	Sonora	13,990	14,559	1.11	12,488	.96	15	.39	10
35-A District	Mariposa	13,231	14,255	1.08	11,647	.88	.20	.72	.31
Napa County	Calistoga	12,515	10,332	.83	12,977	1.04	—.21	—.19	.06
36th District	Dixon	12,394	3,649	.29	6,867	.55	—.26	—01	07
26th District	Plymouth	12,321	11,476	.93	9,016	.73	.20	.12	—03
10-A District	Tulelake	12,095	2,019	.17	2,455	.20	—.03	—.05	.00
49th District	Lakeport	12,014	10,766	.90	5,437	.45	.45	.43	.44
34th District	Cedarville	10,500	7,779	.74	9,253	.88	—.14	—.10	—.14
41st District	Crescent City	9,869	9,102	.92	7,423	.75	.17	.13	.00
San Benito County	Hollister	7,176	15,193	2.12	12,261	1.71	.41	.14	.07
Trinity County	Hayfork	6,600	4,395	.67	2,597	.39	.28	.42	.31
Mendocino County	Boonville	6,310	6,852	1.09	6,258	.99	.10	.79	.70
Shasta County	McArthur	6,200	3,630	.59	3,685	.59	.00	.03	.13

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

OPERATING EXPENDITURES

OPERATING REVENUE

NET OPERATING EXPENSE

Fair	*Location*		*1950*	*1955*	*1956*	*1957*
Santa Clara County	San Jose	Operating expenditures	$292,180	$386,240	$362,732	$390,619
		Operating revenue	142,138	197,021	196,846	206,826
		Net operating expense	150,042	189,219	165,886	183,793
Alameda County F PM	Pleasanton PM	Operating expenditures	321,959	462,198	612,323	677,984
		Operating revenue	278,400	495,638	547,616	567,557
		Net operating expense	43,559	—33,440	64,707	110,426
1st District	Oakland	Operating expenditures	188,077	178,969	140,859	226,443
		Operating revenue	157,935	116,807	53,318	126,788
		Net operating expense	30,142	62,162	87,541	99,644
52nd District F 1955	Sacramento	Operating expenditures	128,905	75,529	77,670	91,292
		Operating revenue	90,059	9,189	14,119	17,170
		Net operating expense	38,846	66,340	63,551	74,122
Solano County PM	Vallejo	Operating expenditures	53,115	383,255	389,588	392,997
		Operating revenue	67,916	297,183	328,112	319,022
		Net operating expense	—14,802	86,072	61,476	73,974
16th District	Paso Robles	Operating expenditures	62,616	88,700	101,380	103,490
		Operating revenue	22,930	26,337	32,631	32,413
		Net operating expense	39,687	62,363	68,749	71,076
24th District	Tulare	Operating expenditures	128,013	116,234	157,822	147,203
		Operating revenue	62,997	66,715	95,390	76,126
		Net operating expense	66,016	49,519	62,432	71,076
25th District	Napa	Operating expenditures	62,799	70,101	86,329	110,271
		Operating revenue	27,468	30,600	32,741	40,045
		Net operating expense	35,331	39,501	53,588	70,225
Plumas County	Quincy	Operating expenditures	58,832	92,249	103,753	100,527
		Operating revenue	29,377	27,368	29,856	27,979
		Net operating expense	26,255	61,619	69,577	69,965
14th District	Watsonville	Operating expenditures	76,359	85,246	91,608	97,357
		Operating revenue	29,377	27,368	29,856	27,979
		Net operating expense	46,981	57,878	61,752	69,378
45th District	Imperial	Operating expenditures	96,068	138,500	138,512	139,932
		Operating revenue	54,428	67,024	73,103	70,726
		Net operating expense	41,640	71,476	65,409	69,206

37th District	Santa Maria	Operating expenditures	92,359	105,160	110,460	115,981
		Operating revenue	42,595	39,307	46,939	47,697
		Net operating expense	49,764	65,853	63,521	68,284
32nd District	Costa Mesa	Operating expenditures	116,219	159,315	174,506	184,143
		Operating revenue	64,699	96,321	111,838	117,770
		Net operating expense	51,520	62,994	62,668	66,372
39th District	Angels Camp	Operating expenditures	62,356	83,587	85,123	87,932
		Operating revenue	23,355	26,270	29,121	22,684
		Net operating expense	39,001	57,317	56,002	65,248
28th District	Victorville	Operating expenditures	55,662	83,057	89,095	91,337
		Operating revenue	12,429	25,013	26,640	27,179
		Net operating expense	43,233	58,044	62,455	64,158
29th District	Sonora	Operating expenditures	50,130	76,833	81,309	84,873
		Operating revenue	14,905	18,395	23,103	20,826
		Net operating expense	35,224	58,438	58,206	64,047
9th District	Eureka	Operating expenditures	78,377	88,164	93,472	98,093
		Operating revenue	32,036	34,334	36,326	35,141
		Net operating expense	46,340	53,830	57,146	62,951
13th District	Yuba City	Operating expenditures	53,069	80,981	47,914	89,571
F 1956		Operating revenue	19,371	31,703	1,477	26,881
		Net operating expense	33,699	49,278	46,437	62,689
		Operating expenditures	94,674	122,806	126,567	124,689
35th District	Merced	Operating revenue	51,268	62,193	70,040	63,326
		Net operating expense	43,406	60,613	56,527	61,362
7th District	Monterey	Operating expenditures	80,218	125,738	128,021	133,402
		Operating revenue	40,296	67,314	66,711	72,370
		Net operating expense	39,922	58,424	61,310	61,032
42nd District	Orland	Operating expenditures	67,084	79,618	82,966	81,271
		Operating revenue	23,518	19,104	19,641	20,308
		Net operating expense	43,566	60,514	63,325	60,963
12th District	Ukiah	Operating expenditures	37,091	62,290	68,535	80,882
		Operating revenue	13,210	18,119	18,244	20,097
		Net operating expense	23,881	44,171	50,291	60,785
27th District	Anderson	Operating expenditures	62,049	83,994	91,075	82,321
F		Operating revenue	21,970	22,654	24,755	22,761
		Net operating expense	40,078	61,340	66,320	59,560
21-A District	Madera	Operating expenditures	54,162	69,827	75,421	79,266
		Operating revenue	25,012	18,581	20,796	19,888
		Net operating expense	29,150	51,246	54,625	59,377
Madera County	Chowchilla	Operating expenditures	43,505	80,294	101,406	84,536
		Operating revenue	12,151	21,439	28,338	26,271
		Net operating expense	31,354	58,855	73,068	58,264

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs—Continued

OPERATING EXPENDITURES—Continued

OPERATING REVENUE—Continued

NET OPERATING EXPENSE—Continued

Fair	*Location*		*1950*	*1955*	*1956*	*1957*
El Dorado County	Placerville	Operating expenditures	61,379	74,151	76,687	78,143
		Operating revenue	15,246	18,374	20,974	19,885
		Net operating expense	46,133	55,777	55,713	58,258
20th District	Auburn	Operating expenditures	50,280	69,108	73,557	74,420
		Operating revenue	9,269	14,190	14,480	17,223
		Net operating expense	41,011	54,918	59,077	57,196
18th District (First Fair 1953)	Bishop	Operating expenditures	8,390	50,941	51,769	72,051
		Operating revenue	3,370	12,715	12,860	16,068
		Net operating expenses	5,020	38,226	38,909	55,982
26th District	Plymouth	Operating expenditures	35,363	50,362	61,924	72,680
		Operating revenue	6,854	11,806	12,751	16,825
		Net operating expense	28,509	38,556	49,173	55,855
23rd District	Antioch	Operating expenditures	50,018	92,266	95,502	99,870
		Operating revenue	17,749	34,099	43,313	44,444
		Net operating expense	32,269	58,167	52,189	55,425
Monterey County	King City	Operating expenditures	46,016	65,585	68,871	69,923
		Operating revenue	9,949	15,160	15,705	14,899
		Net operating expense	36,067	50,425	53,166	55,024
46th District	Hemet	Operating expenditures	62,152	76,651	79,671	79,819
		Operating revenue	23,671	26,301	24,408	25,011
		Net operating expense	38,481	50,350	55,263	54,807
44th District	Colusa	Operating expenditures	56,676	72,027	64,176	66,811
		Operating revenue	9,883	14,015	13,265	12,737
		Net operating expense	46,793	58,012	50,911	54,073
3rd District	Chico	Operating expenditures	70,028	82,549	94,708	93,408
		Operating revenue	27,547	31,823	32,240	39,338
		Net operating expense	42,481	50,726	62,468	54,070
15th District	Bakersfield	Operating expenditures	91,181	140,060	156,843	163,033
		Operating revenue	47,208	97,226	101,735	109,931
		Net operating expense	43,973	42,834	55,108	53,101
24-A District	Hanford	Operating expenditures	41,170	84,304	66,407	77,193
		Operating revenue	20,157	28,466	22,264	24,467
		Net operating expense	21,013	55,838	44,143	52,725

38th District	Turlock	Operating expenditures	82,946	112,669	114,897	118,194
		Operating revenue	41,989	60,976	62,567	65,542
		Net operating expense	40,957	51,693	52,330	52,652
30th District	Red Bluff	Operating expenditures	41,732	66,480	66,012	69,135
		Operating revenue	7,201	16,411	16,645	16,538
		Net operating expense	34,531	50,069	49,367	52,596
50th District	Lancaster	Operating expenditures	44,626	93,570	108,490	132,582
		Operating revenue	28,841	53,966	70,959	80,050
		Net operating expense	15,786	39,604	37,531	52,532
4th District	Petaluma	Operating expenditures	33,537	63,239	67,145	68,795
		Operating revenue	5,176	10,384	16,012	16,408
		Net operating expense	28,361	52,855	51,133	52,386
17th District	Grass Valley	Operating expenditures	35,341	55,467	59,602	63,383
		Operating revenue	8,330	11,930	11,722	11,161
		Net operating expense	27,011	43,537	47,880	52,221
Humboldt County PM	Ferndale	Operating expenditures	123,330	151,631	175,576	141,254
		Operating revenue	55,848	85,583	108,119	89,182
		Net operating expense	67,482	66,048	67,457	52,072
49th District	Lakeport	Operating expenditures	40,096	58,012	67,822	69,805
		Operating revenue	9,161	14,720	15,437	18,011
		Net operating expense	30,935	43,292	52,385	51,794
Placer County	Roseville	Operating expenditures	64,266	72,619	70,888	75,036
		Operating revenue	24,167	21,566	22,058	23,929
		Net operating expense	40,099	51,053	48,830	51,106
Butte County	Gridley	Operating expenditures	45,116	68,431	72,224	79,285
		Operating revenue	13,050	25,608	25,889	28,263
		Net operating expense	32,066	42,823	46,335	51,022
10th District F	Yreka	Operating expenditures	35,930	48,207	51,137	65,669
		Operating revenue	11,270	8,960	11,436	15,182
		Net operating expense	24,660	39,247	39,701	50,487
Riverside County	Indio	Operating expenditures	135,269	169,902	167,431	201,194
		Operating revenue	152,676	117,099	120,649	152,255
		Net operating expense	—17,407	52,803	46,782	48,938
33rd District F	Hollister	Operating expenditures	45,088	60,927	58,932	63,097
		Operating revenue	6,054	14,209	13,848	14,721
		Net operating expense	39,034	46,718	45,084	48,376
Lassen County F	Susanville	Operating expenditures	41,239	68,921	68,996	70,146
		Operating revenue	7,429	25,223	20,676	22,570
		Net operating expense	33,809	43,698	48,320	47,575
35-A District	Mariposa	Operating expenditures	38,121	66,102	65,289	65,939
		Operating revenue	12,644	19,985	19,118	18,427
		Net operating expense	25,477	46,117	46,171	47,511

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs—Continued

OPERATING EXPENDITURES—Continued

OPERATING REVENUE—Continued

NET OPERATING EXPENSE—Continued

Fair	*Location*		*1950*	*1955*	*1956*	*1957*
Mendocino County	Boonville	Operating expenditures	41,165	54,164	60,039	58,783
		Operating revenue	11,061	12,390	13,607	11,571
		Net operating expense	20,105	41,774	46,432	47,211
Napa County	Calistoga	Operating expenditures	49,079	52,829	54,576	61,059
		Operating revenue	13,970	12,530	11,778	16,498
		Net operating expense	35,109	40,299	42,798	44,560
36th District	Dixon	Operating expenditures	43,301	62,395	65,925	60,762
		Operating revenue	17,092	21,157	18,699	16,547
		Net operating expense	26,210	41,238	47,226	44,215
31st District	Ventura	Operating expenditures	107,713	128,394	120,625	123,958
		Operating revenue	65,280	69,889	80,640	80,402
		Net operating expense	42,433	58,505	39,985	43,556
40th District F	Woodland	Operating expenditures	47,644	69,705	71,935	76,291
		Operating revenue	15,743	29,332	32,155	34,013
		Net operating expense	31,901	40,373	39,780	42,278
19th District F	Santa Barbara	Operating expenditures	61,160	82,025	85,168	91,418
		Operating revenue	40,619	47,699	48,682	49,175
		Net operating expense	20,541	34,326	36,786	42,243
41st District	Crescent City	Operating expenditures	43,994	52,470	54,932	55,836
		Operating revenue	8,998	11,647	12,155	14,087
		Net operating expense	34,996	40,823	42,777	41,749
34th District F	Cedarville	Operating expenditures	44,171	46,659	51,422	52,896
		Operating revenue	11,874	10,252	9,203	11,237
		Net operating expense	32,297	36,407	42,219	41,659
2nd District PM	Stockton	Operating expenditures	283,970	352,500	375,687	402,556
		Operating revenue	206,085	268,987	333,784	361,051
		Net operating expense	77,885	83,513	41,903	41,505
San Joaquin County	Lodi	Operating expenditures	42,466	65,981	70,267	74,544
		Operating revenue	20,200	33,903	37,834	36,994
		Net operating expense	22,266	32,078	32,433	37,550
Shasta County	McArthur	Operating expenditures	26,879	33,751	42,256	44,691
		Operating revenue	4,330	4,708	7,940	8,562
		Net operating expense	22,539	29,043	34,316	36,129

San Mateo County PM	San Mateo	Operating expenditures	201,815	454,427	500,269	548,903
		Operating revenue	150,299	422,235	473,742	513,193
		Net operating expense	51,515	32,192	26,527	35,710
Trinity County	Hayfork	Operating expenditures	27,017	37,318	45,203	42,057
		Operating revenue	5,816	8,608	10,160	7,056
		Net operating expense	21,202	28,710	35,043	35,001
10-A District F (First Fair 1952)	Tulelake	Operating expenditures	9,593	21,537	26,460	36,435
		Operating revenue	767	1,258	1,626	2,793
		Net operating expense				
Marin County	Ross	Operating expenditures	22,305	45,949	49,650	50,413
		Operating revenue	7,193	14,841	14,139	17,473
		Net operating expense	15,112	31,108	35,511	32,940
51st District	Northridge	Operating expenditures	75,737	93,586	100,857	114,790
		Operating revenue	37,474	47,253	67,562	82,498
		Net operating expense	38,263	46,333	33,295	32,292
Sonoma County PM	Santa Rosa	Operating expenditures	260,378	373,320	372,636	401,079
		Operating revenue	230,359	321,520	348,750	370,699
		Net operating expense	30,019	51,800	23,886	30,380
Merced County	Los Banos	Operating expenditures	23,182	54,477	62,934	68,036
		Operating revenue	1,844	29,471	25,210	42,267
		Net operating expense	21,338	25,006	37,724	25,769
21st District PM	Fresno	Operating expenditures	284,471	417,756	431,819	493,840
		Operating revenue	306,380	395,549	403,297	479,772
		Net operating expense	—21,910	22,207	28,522	14,067
San Benito County F	Hollister	Operating expenditures	16,315	30,773	27,815	28,955
		Operating revenue	16,150	15,331	15,275	15,193
		Net operating expense	165	15,442	12,540	13,761
San Francisco County F	San Francisco	Operating expenditures	6,590	8,191	9,355	10,343
		Operating revenue	—	—	—	—
		Net operating expense	6,590	8,191	9,355	10,343
22nd District	Del Mar	Operating expenditures	457,999	462,839	519,777	528,554
		Operating revenue	537,308	656,535	674,261	726,508
		Net operating expense	—79,309	—193,696	—154,484	—197,954

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

OPERATING BALANCES

Fair	Location	Operating balance Jan. 1, 1958	Operating expenditures budgeted for 1958	Operating balance available January 1 as percent of operating expenditures budgeted for year (under 100 percent) 1958	1957	1956
1st District	Oakland	$197,329	$207,056	95	--	--
2d District	Stockton	77,798	436,391	18	15	13
3d District	Chico	76,996	97,917	79	74	82
4th District	Petaluma	73,622	69,960	--	98	--
7th District	Monterey	70,125	126,987	55	59	62
9th District	Eureka	62,353	92,074	68	76	93
10th District	Yreka	83,343	61,279	--	--	--
10-A District	Tulelake	90,474	42,242	--	--	--
12th District	Ukiah	95,387	80,460	--	--	--
13th District	Yuba City	77,095	90,029	86	--	99
14th District	Watsonville	26,777	89,933	30	44	56
15th District	Bakersfield	66,962	163,650	41	44	43
16th District	Paso Robles	67,211	100,485	64	76	94
17th District	Grass Valley	119,463	70,086	--	--	--
18th District	Bishop	48,144	66,706	72	--	--
19th District	Santa Barbara	199,823	126,381	--	--	--
20th District	Auburn	96,299	77,385	--	--	--
21st District	Fresno	440,917	536,735	82	85	85
21-A District	Madera	65,238	77,737	84	96	--
22d District	Del Mar	476,168	557,035	85	72	80
23d District	Antioch	82,894	100,712	82	81	82
24th District	Tulare	—909	133,954	—1	9	21
24-A District	Hanford	85,037	76,528	--	--	--
25th District	Napa	51,876	107,487	48	70	75
26th District	Plymouth	108,628	73,612	--	--	--
27th District	Anderson	66,931	86,129	78	77	84
28th District	Victorville	31,778	86,471	37	50	55
29th District	Sonora	62,211	85,296	73	87	87
30th District	Red Bluff	53,383	70,628	76	79	99
31st District	Ventura	128,931	136,444	94	87	80
32d District	Costa Mesa	30,961	151,980	20	20	22
33d District	Hollister	203,321	66,804	--	--	--
34th District	Cedarville	68,885	60,805	--	--	--
35th District	Merced	98,012	129,674	76	81	75

35-A District	Mariposa	86,617	72,748	--	--	--
36th District	Dixon	101,183	69,846	--	--	--
37th District	Santa Maria	89,006	110,067	80	90	90
38th District	Turlock	85,859	126,215	68	75	64
39th District	Angels Camp	68,036	83,997	81	89	--
40th District	Woodland	88,334	79,754	--	--	--
41st District	Crescent City	93,793	62,248	--	--	--
42d District	Orland	69,064	74,070	93	--	--
44th District	Colusa	74,582	67,754	--	--	89
45th District	Imperial	98,461	136,562	72	79	--
46th District	Hemet	78,286	80,465	97	90	95
49th District	Lakeport	61,643	72,382	85	90	--
50th District	Lancaster	70,495	130,417	54	77	87
51st District	San Fernando	108,700	128,778	84	--	--
52d District	Sacramento	74,602	89,003	84	--	--
Alameda County	Pleasanton	297,050	701,137	42	49	74
Butte County	Gridley	101,639	81,126	--	--	--
El Dorado County	Placerville	64,247	75,483	85	91	86
Humboldt County	Ferndale	7,661	138,573	6	—7	—1
Lassen County	Susanville	102,346	70,344	--	--	--
Madera County	Chowchilla	30,796	84,810	36	33	64
Marin County	Ross	114,253	56,175	--	--	--
Mendocino County	Boonville	104,038	61,968	--	--	--
Merced County	Los Banos	32,568	78,111	42	62	--
Monterey County	King City	67,400	76,209	88	90	89
Napa County	Calistoga	74,509	66,306	--	--	--
Placer County	Roseville	87,571	80,856	--	--	--
Plumas County	Quincy	26,691	100,524	27	24	39
Riverside County	Indio	90,881	225,209	40	58	58
San Benito County	Hollister	185,360	41,980	--	--	--
San Francisco County	San Francisco	599,714	12,394	--	--	--
San Joaquin County	Lodi	127,282	116,938	--	--	--
San Mateo County	San Mateo	130,341	546,923	24	31	29
Santa Clara County	San Jose	124,545	403,329	31	21	53
Shasta County	McArthur	136,355	50,291	--	--	--
Solano County	Vallejo	64,812	421,508	15	19	24
Sonoma County	Santa Rosa	76,382	420,004	18	16	9
Trinity County	Hayfork	94,875	48,892	--	--	--

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

EXHIBIT ENTRIES

Fair	*Location*	*Livestock entries*	*Feature booths entries*	*Horse show entries*	*Floriculture entries*	*Home economics entries*	*Other entries*	*Total entries*
1st District	Oakland	–	–	–	162	–	–	162
2d District	Stockton	2,342	31	201	4,385	3,673	3,440	14,027
3d District	Chico	1,663	25	197	1,230	1,511	1,672	6,298
4th District	Petaluma	1,593	–	6	108	1,295	693	3,695
7th District	Monterey	923	23	687	417	2,249	1,264	5,563
9th District	Eureka	1,081	–	115	404	800	1,643	4,043
10th District	Yreka	858	23	73	897	1,928	943	4,722
10-A District	Tulelake	354	20	62	401	514	305	1,656
12th District	Ukiah	630	18	90	711	1,217	825	3,491
13th District	Yuba City	1,006	13	–	1,861	1,016	840	4,736
14th District	Watsonville	813	28	227	579	1,865	1,357	4,869
15th District	Bakersfield	2,053	9	390	329	1,685	2,168	6,634
16th District	Paso Robles	1,355	17	83	1,003	2,465	3,180	8,103
17th District	Grass Valley	509	17	87	571	1,573	775	3,532
18th District	Bishop	278	10	94	327	458	819	1,986
19th District	Santa Barbara	125	–	1,445	689	–	366	2,625
20th District	Auburn	644	35	128	434	1,209	1,347	3,797
21st District	Fresno	2,379	29	–	2,493	3,186	5,726	13,813
21-A District	Madera	863	11	15	693	1,853	1,805	5,240
22d District	Del Mar	1,808	43	2,376	1,285	2,144	5,025	12,681
23d District	Antioch	919	19	201	268	760	489	2,656
24th District	Tulare	1,710	31	133	467	2,119	4,109	8,569
24-A District	Hanford	970	16	–	326	1,165	1,338	3,815
25th District	Napa	524	23	–	1,749	1,786	2,498	6,580
26th District	Plymouth	567	30	226	552	2,181	724	4,280
27th District	Anderson	1,285	21	103	1,110	2,005	2,132	6,656
28th District	Victorville	543	27	–	335	1,249	1,798	3,952
29th District	Sonora	537	21	71	309	732	2,194	3,864
30th District	Red Bluff	1,078	26	–	412	2,742	1,500	5,758
31st District	Ventura	352	38	69	657	3,999	2,711	7,826
32d District	Costa Mesa	463	38	901	1,077	1,147	1,837	5,463
33d District	Hollister	505	21	46	598	1,594	1,072	3,836
34th District	Cedarville	849	19	85	712	985	1,460	4,110

35th District	Merced	1,196	12	162	784	1,619	2,129	5,902
35-A District	Mariposa	522	23	59	502	1,230	702	3,038
36th District	Dixon	913	15	–	1,075	1,811	705	4,519
37th District	Santa Maria	1,284	23	667	1,783	1,405	1,232	6,394
38th District	Turlock	1,589	14	72	1,347	1,213	3,011	7,246
39th District	Angels Camp	558	23	–	612	1,455	962	3,610
40th District	Woodland	832	24	74	1,768	1,659	1,247	5,604
41st District	Crescent City	287	13	68	940	1,490	1,736	4,534
42d District	Orland	1,431	23	89	1,179	1,588	2,341	6,651
44th District	Colusa	919	34	241	655	849	1,085	3,783
45th District	Imperial	674	39	524	706	1,211	1,967	5,121
46th District	Hemet	511	37	–	267	2,325	2,129	5,269
49th District	Lakeport	742	23	120	706	1,172	1,026	3,789
50th District	Lancaster	893	19	302	673	1,591	3,005	6,483
51st District	San Fernando	1,102	18	257	61	1,554	1,800	4,792
52d District	Sacramento	644	19	200	1,866	2,133	583	5,445
Alameda Co.	Pleasanton	2,117	84	–	1,103	3,114	4,130	10,548
Butte Co.	Gridley	1,071	17	5	2,088	2,133	1,100	6,414
El Dorado Co.	Placerville	362	27	219	651	835	990	3,084
Humboldt Co.	Ferndale	1,108	21	115	421	1,482	1,623	4,770
Lassen Co.	Susanville	1,442	11	141	848	1,169	203	3,814
Madera Co.	Chowchilla	1,074	12	–	771	1,885	2,438	6,180
Marin Co.	Ross	–	–	–	652	–	489	1,141
Mendocino Co.	Boonville	961	22	86	676	1,653	1,961	5,359
Merced Co.	Los Banos	1,124	–	–	–	–	181	1,305
Monterey Co.	King City	1,003	22	35	730	1,568	558	3,916
Napa Co.	Calistoga	587	22	54	459	1,285	760	3,167
Placer Co.	Roseville	677	20	132	602	930	685	3,046
Plumas Co.	Quincy	474	24	87	610	863	615	2,673
Riverside Co.	Indio	549	36	819	122	2,211	1,079	4,816
San Benito Co.	Hollister	31	–	12	–	–	–	43
San Francisco Co	San Francisco	–	–	–	1,773	–	–	1,773
San Joaquin Co	Lodi	–	36	–	2,337	36	1,209	3,618
San Mateo Co.	San Mateo	230	21	–	1,048	1,290	543	3,132
Santa Clara Co.	San Jose	2,292	47	–	1,393	3,242	5,932	12,906
Shasta Co.	McArthur	760	24	45	565	1,489	827	3,710
Solano Co.	Vallejo	904	16	–	924	1,296	1,393	4,533
Sonoma Co.	Santa Rosa	2,787	27	102	680	1,899	1,747	7,242
Trinity Co.	Hayfork	361	12	124	965	2,077	1,245	4,784
Totals		65,590	1,542	12,922	61,893	107,867	113,423	363,237

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

INTERIM USE ATTENDANCE AND REVENUE

Fair	*Location*	*Reported attendance 1957*	*Interim use revenue 1957*	*Revenue per person*
1st District	Oakland NF	--	--	--
2d District	Stockton	119,661	$15,422	$0.13
3d District	Chico	56,435	4,105	0.07
4th District	Petaluma	26,525	2,394	0.09
7th District	Monterey	59,519	8,329	0.14
9th District	Eureka	51,027	13,323	0.26
10th District	Yreka NR	--	1,979	--
10-A District	Tulelake	7,636	163	0.02
12th District	Ukiah	27,368	3,891	0.14
13th District	Yuba City	16,843	962	0.06
14th District	Watsonville	4,000	1,323	0.33
15th District	Bakersfield	202,550	17,661	0.09
16th District	Paso Robles	35,550	1,794	0.05
17th District	Grass Valley	39,935	874	0.02
18th District	Bishop	7,112	1,371	0.19
19th District	Santa Barbara NF	--	--	--
20th District	Auburn	96,407	6,575	0.07
21st District	Fresno	122,100	8,545	0.07
21-A District	Madera	14,350	4,938	0.34
22d District	Del Mar NR	--	394,236	--
23d District	Antioch	37,665	6,894	0.18
24th District	Tulare	100,500	14,394	0.14
24-A District	Hanford	16,950	1,657	0.10
25th District	Napa NR	--	5,422	--
26th District	Plymouth	33,025	2,324	0.07
27th District	Anderson NR	--	6,400	--
28th District	Victorville	26,105	3,320	0.13
29th District	Sonora	26,186	3,565	0.14
30th District	Red Bluff	39,665	6,553	0.17
31st District	Ventura	27,872	7,534	0.27
32d District	Costa Mesa	93,900	15,629	0.17
33d District	Hollister	136,414	8,281	0.06
34th District	Cedarville	3,535	1,742	0.49
35th District	Merced	201,686	11,329	0.06
35-A District	Mariposa	11,138	1,848	0.17
36th District	Dixon	32,580	4,854	0.15
37th District	Santa Maria	57,145	2,983	0.05
38th District	Turlock NR	--	7,473	--
39th District	Angels Camp	7,563	768	0.10
40th District	Woodland	74,400	9,805	0.13
41st District	Crescent City	95,687	3,919	0.04
42d District	Orland	18,865	1,749	0.09
44th District	Colusa NR	--	2,307	--
45th District	Imperial	26,376	3,819	0.14
46th District	Hemet NR	--	3,443	--
49th District	Lakeport	52,550	5,138	0.10
50th District	Lancaster	150,325	12,673	0.08
51st District	Northridge	145,400	18,561	0.13
52d District	Sacramento NR	--	2,139	--

DEPARTMENT OF FINANCE—FAIRS AND EXPOSITIONS DIVISION

Statistical Data—1957 Fairs

INTERIM USE ATTENDANCE AND REVENUE—Continued

Fair	*Location*	*Reported attendance 1957*	*Interim use revenue 1957*	*Revenue per person*
Alameda	Pleasanton	36,200	$13,560	$0.37
Butte	Gridley	104,800	7,922	0.08
El Dorado	Placerville	11,765	3,737	0.32
Humboldt	Ferndale	3,862	2,295	0.59
Lassen	Susanville	20,000	1,518	0.08
Madera	Chowchilla	72,683	6,952	0.10
Marin	Ross NR	--		--
Mendocino	Boonville NR	--	2,475	--
Merced	Los Banos	26,625	1,466	0.06
Monterey	King City	11,060	1,212	0.11
Napa	Calistoga	22,927	4,259	0.19
Placer	Roseville	20,000	3,813	0.19
Plumas	Quincy	15,468	2,022	0.13
Riverside	Riverside	23,685	5,640	0.24
San Benito	Hollister NF	--	--	--
San Francisco	San Francisco NF	--	--	--
San Joaquin	Lodi	100,159	5,665	0.06
San Mateo	San Mateo	71,560	10,299	0.14
Santa Clara	San Jose	155,938	29,005	0.19
Shasta	McArthur	5,275	938	0.18
Solano	Vallejo	49,055	3,134	0.06
Sonoma	Santa Rosa	85,000	9,503	0.11
Trinity	Hayfork	51,620	45	--

NOTE: NF—Fair has no facilities for interim use
NR—Report not received from fair

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