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1970 REGULAR SESSION

REPORTS

January 5, 1970–September 23, 1970

TABLE OF CONTENTS

Volume 1 Number 1

ASSEMBLY INTERIM COMMITTEE REPORTS

1969

A Final Report of the
Assembly Interim Committee on Public Employment and Retirement

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WALTER KARABIAN, *Vice Chairman*
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JANUARY 1970

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*Assemblymen Badham and Z'berg concur in the report with reservations.

LETTER OF TRANSMITTAL

January 30, 1970

HONORABLE ROBERT T. MONAGAN
Speaker of the Assembly, and
MEMBERS OF THE ASSEMBLY
State Capitol
Sacramento, California

Dear Mr. Speaker and Members:

Transmitted herewith is the final report of the Assembly Committee on Public Employment and Retirement for the interim period of 1969–70.

This report covers Unit Determination, Disability Retirement, Cost-of-Living Retirement Adjustments, Termination of Social Security Coverage, and Local Safety Member Retirement Benefits.

The committee wishes to thank you and your staff for the support you have given us in our work.

Respectfully submitted,

WADIE P. DEDDEH, *Chairman*
WALTER KARABIAN, *Vice Chairman*
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TABLE OF CONTENTS

PART I

UNIT DETERMINATION

Findings:

1 In some instances, disputes have arisen which have led to a lack of recognition of employee organizations.
2. The Meyers-Milias-Brown Act is generally being implemented adequately at the local level.
3. The Meyers-Milias-Brown Act should not be amended to include uniform units.
4. Units should not be established by law in state service.

Recommendations:

1. With respect to state employment, the committee recommends that the Legislature delegate, with appropriate standards to a public agency, the authority to make unit determinations and the state shall recognize such determinations.
2 The Legislature, by concurrent resolution at the 1970 session, should congratulate local agencies which have implemented the act and should urge implementation by those agencies which have not yet acted and which have employer-employee relations.

2—985

A. MEYERS-MILIAS-BROWN ACT

The committee met in San Diego on October 13th for an interim hearing on two aspects of the law governing personnel relationships between public employers and their employees. The Meyers-Milias-Brown Act (MMB) was enacted in 1968 as an amendment to, and expansion of the George Brown Act of 1961. It applies to all public agencies in California except the state itself and school districts. The latter are covered by somewhat similar legislation in the Education Code under the familiar title of the Winton Act.

The MMB currently requires local public employers to "meet and confer in good faith" with local organizations of employees on matters relating to the conditions of employment. Final decisions, however, are the province of the particular governing board.

The interim hearing was divided, morning and afternoon, in order to concentrate on two important but separate issues. The morning's discussion was devoted to the topic of "unit determination" and MMB, while the afternoon session dealt with unit determination in state employment.

"Unit determination" as an issue was brought to the attention of the committee by several organizations representing local employees. It means, basically, a decision on which one or more employee organizations will be officially recognized for the purpose of meeting and conferring with an employer or its representatives

With slight exceptions, the MMB contains no statutory requirement or definition of units. The omission during passage of the MMB Act was deliberate, since it was recognized by all concerned, legislators, proponents, and opponents, that any attempt to define or mandate a particular form of recognition would doom the entire enterprise. The reasons are varied.

The situation is comparable to the dispute which has occurred within organized labor over the past several decades. The first well-organized trade unions derived this somewhat archaic (now) term from the fact that they organized on the principle of a work specialty, e.g. Samuel Gompers' cigarmakers. A coalition of these groups ultimately formed the American Federation of Labor.

In the 1930's, after the maturity of large corporate enterprises entailing many trades and skills, a new type of labor organization grew up. It was based on the whole industry, such as automobiles or steel, and led to the formation of the Congress of Industrial Organizations.

Today, there is still some residual debate in private labor circles between the craft proponents and the industrial advocates. However, the decision on unit determination has, by federal statutes, been transferred from the employer to the National Labor Relations Board which normally conducts a secret election to settle the question.

This is a procedure which has been advanced by some as a proper format for public employers However, the committee notes that the activities of most public employers covered by the MMB Act are far more varied and diverse than virtually any private employer

save possibly the relatively new type of corporate entity known as the conglomerate.

For example, a county or a city employs policemen, firemen, clerical workers, nurses, carpenters, machinists, truck or bus drivers, social workers, psychologists, physicians, librarians, lawyers, accountants, engineers, and lifeguards, not to mention numerous kinds of general administrative employees

Added to this is the basic organization of city or county government The issue of unit determination may be easily visualized by reference to the position of a traffic clerk in the police department Is he to be represented by a citywide association of nonsupervisory personnel? Or is he to be represented by a labor union of clerical workers? Or perhaps a group representing all employees of the police department? Or any number of other possibilities?

This is a very important decision—not only for the employee but for the public employer It is also a problem, a difficult problem, and one which public employers have tried to resolve equitably for all concerned

The hearing brought out the fact that the complexities of unit determination have led, in some cases, to a lack of decision by MMB employers And the consequence is that in those localities, no organization, association or union has been recognized to participate officially in the "meeting and conferring" process specified in the law

The committee recognizes that the MMB Act has only been in effect since January 1, 1969 At the time of our hearing, only nine months had elapsed, and we do not think any evidence was presented to us that local public employers were deliberately derelict in their duty to implement the law.

The testimony we heard came basically from two sources: employer representatives and employee organizations The representatives of cities, counties and special districts generally agreed that the law, as written, was basically good They recognized, in principle, that functional problems had occurred in some instances But their positions were generally that more time was needed to work out the law's implementation.

Representatives of employee organization were, quite naturally, somewhat more impatient In several cases, they dealt with specific local instances, including the example of an organization which had been unofficially (but actually) recognized by an employer for over 50 years Passage of the MMB Act apparently led this employer to suspend all previous recognitions pending a complete implementation of the law

All witnesses, however, were in agreement that the issues of unit determination were complicated and varied As only one example, while policemen and firemen usually prefer to have their own separate organizations to represent them, it has been a tradition in Los Angeles to have a unified organization

In the view of many witnesses, the underlying concept behind good, equitable and efficient employee organizations is the idea of a "community of interest" This is not a fixed idea in the concrete sense An employee's view of his own interest can change over a period of time But for an employee organization to be effective, and for a public em-

ployer to have reasonable assurance that the organization does, in fact, represent the true views of the employees, it must be grounded on the willing support of its own membership.

The issue of unit determination is bound up, then, with many individual employee views of their own interest and what fellow employees have in common Employers, themselves, seem to be agreed that employees must be allowed to form organizations of their choice The law, of course, requires this, but voluntary support from employers should go far to implement it faster and better. The decision is peculiar to each given employer.

In reviewing the testimony, a conclusion evolves that the MMB Act was correctly drawn with respect to the transferring of the decision on unit determination to the local entity This conclusion does not imply that no statutory directions will ever be recommended or enacted It implies, rather, that the ultimate resolution of the issue may well be better accomplished by many individual decisions, by trial and error rather than by legislative fiat It is conceivable that future statutes on unit determination could be enacted which, basically, transfer the agreed-upon customs of local government to a statewide framework And the function of such a statute would be merely to protect a small minority of local agencies and employees where irreconcilable local differences arise

For the present, however, the MMB Act should not establish uniform units A concurrent resolution of the Legislature should be adopted—directed at both employers and employees—calling attention to the incomplete implementation of the MMB Act after one-year's operation and urging full implementation where there are employee-employer relations.

This resolution should express the concern of the Legislature that the problem be faced quickly and squarely, and that public employers (who have the final say in promulgating rules and regulations) be placed on notice that one more year is about all the time that can reasonably be allowed, before a statutory date certain for implementation is proposed

B. UNIT DETERMINATION *(State Employment)*

Unit determination in state employment was the subject of the November 13th afternoon hearing. The issue of how employees are to be classified for the purpose of participating in elections to determine an employee representative is inextricably entangled with the issue of employee organization strength On the strength or weakness issue, compromise and agreement among employee organizations on the matter of unit determination is understandably difficult to achieve, at least voluntarily Resolution of the unit determination issue is nevertheless a challenge facing management, labor and the Legislature in the implementation of the Meyers-Milias-Brown Act in state employment (State Civil Service, State Colleges and University of California)

In the 1969 session, implementation legislation failed to become law At least two of the bills faltered partly because of disagreement among employee organizations on the implications of unit determination language used in the bills

The technical ramifications of unit determination in state service can be focused upon (and perhaps better understood by a nonspecialist) by redefining the unit determination issue in terms of alternatives, i e, legislative establishment of units or legislative delegation of unit determination to a public agency with the agency decision to be made in light of guidelines established by the Legislature With respect to state employment, this alternative framework can be further simplified as a choice between solution by the Legislature or an agent of the Legislature While a legislative determination of units, i e, actual statutory delineation of employee groups, would seem to settle the issue as of the moment (i e, classify employees for the purpose of representation elections) and avoid "buckpassing," such determination would be relatively inflexible For instance, a future change in any statutorily established structure of units would entail a change in the law which, in turn, would involve recourse to the legislative process This route would involve numerous decisions by separate legislative bodies. It would be time consuming and relatively uncertain Unit determination involves a subject matter that is suitable for delegation to a public agency. In this connection, an agency would presumably develop the expertise necessary to the making of a unit decision and, more importantly, would have ample time to both establish units and review proposals to alter units which have been established

If, as one witness testified, the decision on units is an art and, therefore, not mechanistic, then a legislative delineation of actual units, made in an environment where time is short and where review is difficult, may be the approach that is least of all suited to an issue requiring flexible response to employment needs

State employment does change with time in terms of both numbers of employees and employee needs The best structure of employee units today may not necessarily be the proper units of tomorrow This overused form of analysis in effect states that a mechanism which can ef-

fectively convert the unit of yesterday into the unit demanded by the exigencies of today is a preferable mechanism It affords flexibility It recognizes shifts in both the public interest and employee needs A third party, that is, an existing public agency or some newly created employment commission is the preferable body to establish and review units

With respect to delegated unit determination, the Legislature should nonetheless promulgate guidelines to be used by the public agency These guidelines should provide the agency with considerable latitude in determining employee units These same guidelines should concurrently operate as a constraint upon the agency's power insofar as the exercise of that power might be detrimental to the interests of employees and the public These guidelines to be developed by the Legislature might include such factors as (1) community of interest, (2) profession, and (3) craft, though these are not all-inclusive standards The combination of legislative policy and agency implementation is better than statutory determination of both policy and units

PART II

DISABILITY RETIREMENT— EFFECT AND PROCEDURES

Findings:

1. A disability retirement dispute between an employer and the Public Employees' Retirement System exists in approximately 1 percent of the applications in recent years.
2. Individuals so affected suffer severe financial consequences.
3. Resolution of the problem is not a major financial problem for the state
4. An aggrieved employee has a cause of action in the courts, but it is frequently prohibitively expensive

Recommendations:

1. If the Public Employees' Retirement System denies an application for disability retirement by an employee who has been terminated by his agency for that reason, the agency shall forthwith reemploy the individual in his prior capacity
2. The employing agency, in such circumstances, shall have a right of action in the courts to overrule the decision of the Public Employees' Retirement System.
3. The employing agency of an employee involuntarily dismissed for disability should financially assist the employee in any appeal to the PERS Board of Administration due to denial of a disability allowance.

DISABILITY RETIREMENT— EFFECT AND PROCEDURES

In recent years, a small number of problems have arisen with respect to whether an individual public employee is, or is not, disabled. The dispute occurs between the public employer and the retirement board. As a result of such disputes, approximately one percent of the applicants for a disability retirement pension have found themselves in a position of having neither a job, nor a retirement income.

This problem was brought to the committee's attention in the 1969 session of the Legislature by Assembly Bill 1598. Pursuant to House Resolution 280, the committee has studied the problem in greater detail. AB 1598 originally proposed that in cases of disputes, the particular retirement board be compelled to grant the disability allowance. In effect, enactment of the bill would have given the employer a significant power over the retirement system.

During the course of the hearing, some witnesses averred that an employer, a state or local agency, might sometimes use the disability retirement allowance as a device for resolving what was essentially a personnel problem.

Disability retirement applications are approved by the Public Employees' Retirement System after medical examinations have determined that the individual is not able to perform his work. Applications for disability retirement may be filed by an individual's employer, again based on their own medical advice It is apparent to the committee that we have had cases in which the physicians disagree.

During the course of the study, various suggestions were offered for resolving the impasses between agencies and retirement boards. One of these would have established a medical panel to conduct a third and conclusive medical examination.

Although there is some merit to the suggestion, the Committee finds that the number of actual cases is so relatively minute, that the establishment of an additional state agency could not be justified in terms of economy With such a small number of cases, it is more than likely that some entire years may come and go without a single case coming before the medical review panel

Another suggestion would have transferred the decision on the impasse to the Workmen's Compensation Appeals Board. Again, there is merit to the idea. However, interested parties have pointed out that the WCAB is not exactly suited to such a responsibility.

The reasons for unsuitability are these· In the Public Employees' Retirement System, disability refers to an inability to perform a particular job. It does not mean an inability to do any work at all. The WCAB, on the other hand, is not specifically concerned with whether an employee can continue working Their job is to determine if an industrial accident has injured an employee, and if so, to award him cash compensation. The question of his continuing employability is somewhat irrelevant Hence, the WCAB, if it were given this new type of responsibility, would be required to establish new procedures. Again, the fact that not a single case may occur in a given year stands as a factor to be considered.

Under a third suggestion, employees would have the right to sue in court on a writ to secure an order to reemploy or an order to pay the disability allowance. The cost of the legal process, however, could be exceedingly oppressive for an employee of modest means. Hence, the remedy available is not easily utilized in practice

One of the problems with this approach is that it would be very expensive for many employees But even if some method were found to subsidize his litigation, the court appeal would have already required administrative appeals to both the PERS and either the State Personnel Board or a similar local agency The length of such proceedings seems to us to mitigate against this suggestion

Thus, to remedy this problem, which is quite inconsequential from a statewide viewpoint, but is virtually a matter of life and death for the very few individuals involved each year, the Public Employees' Retirement System should be given authority in Section 21025 of the Government Code to mandate reinstatement of an individual—upon a finding of a lack of disability—but that the employing agency have the right of appeal to the courts

Such a method provides a system which involves only two administrative or judicial proceedings instead of three. It frees the employee from the great expense of litigation.

This method, carried to the final appeal, would have financial consequences for both the PERS and the employing agency. As a result, serious attempts would likely be made between the agencies to resolve the disagreement prior to initiating the full process

Again, it should be emphasized that the problem is extremely small in terms of the total number of individual employees However, it should be resolved so that whole families are not left without a means of support

PART III

COST-OF-LIVING RETIREMENT ADJUSTMENTS

Findings:

1 The automatic cost-of-living formula should remain applicable to all retirees of the Public Employees' Retirement System and there should not be a separate formula for contracting agency retirees and state retirees.

2 Improvement in the automatic cost-of-living formula should currently have priority over improvement in the active employees' service retirement benefit

Recommendation:

The automatic cost-of-living formula should be improved from its present 1 5 percent maximum annual compound rate of 2 0 percent, and until such time that the formula is in parity with the rate of increase in California consumer price indices, the Legislature where feasible should supplement the formula adjustment with periodic cost-of-living adjustments.

Appendix 1: The Phillips Curve

Appendix 2: Consumer Price Index (1920–1969)

COST-OF-LIVING

On November 13, 1969, the committee conducted a hearing to consider proposals to modify the existing 1 5-percent annual compound djustment factor in the benefit structure of the Public Employees' etirement System This adjustment factor is part of a formula benefit ommonly referred to as the automatic cost-of-living benefit. As exected, no testimony was adduced to the effect that no improvement as needed. It was evidently conceded (implicitly) that while the urrent rates of increase in California consumer price indices may deline in future years as anti-inflationary efforts by the federal governent take effect, such decline would not in the foreseeable future ome to rest on a 1.5-percent rate, i e , the formula and inflationary ndicators will not be in parity

The committee was indeed fortunate to receive the testimony of two xperts in the field of inflationary trends and economic forecasting—amely, Professor Robert Williams, director of UCLA's Business Foreasting Project, and Richard Lazansky, chief financial economist for he Department of Finance.

The present 1 5-percent annual compound rate in the cost-of-living ormula is a maximum and now causes, and will continue to cause, lag between adjusted purchasing power under the formula and roded purchasing power caused by inflation

The automatic cost-of-living formula was a product of the 1968 session It was generally recognized by interested parties that the formula ould not close the gap between fixed income and inflation There exsted in 1968 no illusions that the 1 5-percent maximum annual comound rate would "take care of retirees' cost-of-living problems " t was recognized that this rate is conservative and inadequate.

The 1 5-percent rate was formed in a mold shaped by the expected ong-term additional earnings (the rate above the expected fixed ncome investment return) on the system's common stock investment rogram which had been implemented pursuant to a 1966 constitutional amendment and 1967 enabling legislation The 1 5-percent rate rimarily reflected cost considerations rather than retirees' needs In his connection, the additional earnings from the common stock proram are, in a simplified sense, supposed to absorb the costs of the autoatic formula.

The cost consideration factor probably facilitated passage of the ost-of-living formula legislation which might otherwise have foundered nder the burden of budget demands In addition, as the formula was andated on retirees of agencies contracting with the system, further pposition from the agencies was at least somewhat tempered by the ost absorption principle envisioned in the setting of the 1 5-percent ate.

Under more sophisticated analysis, it may be inaccurate to characerize the 1 5-percent rate as primarily reflective of cost consideration ather than retirees' needs when account is taken of the political ramiications affecting passage of the automatic cost-of-living formula in he first instance.

The 1968 maneuvering established a principle that the cost-of-living formula would respond to inflation only to the extent permissibl under expectations of additional earnings on the common stock pro gram. Unfortunately, this principle may prevent the formula, at leas over the near term, from ever reaching an equilibrium with increase in consumer price indices Moreover, the principle complicates formul improvements, even if absorbable by the investment program, in tha proof of such absorption will likely be called for by certain intereste parties with each proposed improvement This is particularly trouble some in that most interested parties outside of the system do no have access to requisite data and the wherewithal necessary to th measurement of earnings expectations in light of benefits and contribu tions

Without diligent ongoing effort on the part of the system to measur improvement against expectation on earnings, formula improvemen will come slowly. Furthermore, the system which operates under mar power and budget restraints is relatively limited in the timing an frequency of its cost analysis

In light of what may be an unplanned and suboptimal approach t formula improvement, the committee considered one device whic might accelerate the timing of improvement. This device would be t bifurcate the formula between retirees of contracting agencies and th state—namely, have two formulas With dual formulas, the cost opposi tion factor is split in half. The committee is not inclined at this tim to split the formula as an expedient to achieving more rapid improv ments in the formula Instead of this practical expedient, the com mittee believes that cost-of-living adjustments should be viewed withi the total framework of retirement benefits and in this context give a priority status

Presently, retiree cost-of-living improvements seem to be conceptu ally dealt with as an area separate from active employee benefit im provement The committee believes that a complete concept of benef structure, from active to retired status, is a more meaningful approac to fashioning retirement priorities With priorities now seemingly d vided between active and retired, there is a finance committee batt for dollars over two policy committee decisions (one for active and on for retired) without a proper view of priorities on the complete retir ment package

In view of the extensive technical testimony provided the commi tee, it appears that the purchasing power of retirees' fixed incomes wi be seriously eroded over the near term by increases in the cost c living In viewing priority between active and retired, it is noted tha even without a service retirement formula improvement for activ employees, they nevertheless indirectly experience such an improv ment through salary increases, as retirement is based on final com pensation Thus, for active employees, a service retirement formul increase plus a salary increase results, in effect, in a double retir ment increase No such double increase is available to the retiree s his formula is not based on increases in the salary of his last positio

With a view to the complete retirement package, a composite vie of active and retiree benefit needs, and in light of the inflationar burden on fixed incomes, improvement in the automatic cost-of-livin formula is not only needed but should have priority from a financi

standpoint over improvement in the active employee service retirement formula

Furthermore, until such time that the automatic formula and consumer price indices are in equilibrium, the Legislature, where feasible, should provide periodic adjustments to close the lag. These adjustments should, however, be discretionary for contracting agencies

APPENDIX 1

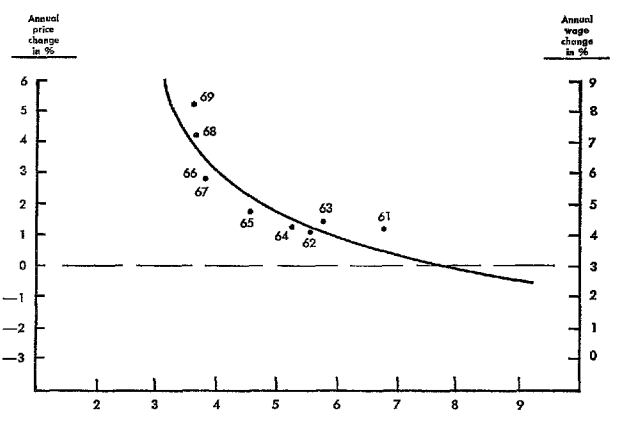
As an indication of the almost inherent need for improvement in cost-of-living adjustments, the committee was presented with the following theoretical model, named the Phillips curve, which depicts the seemingly insoluble conflict between two desirable goals The one being a low rate of unemployment The other being a stable price level

It was stated that so far as the characteristics of the American economy are concerned, it appears to be extremely difficult to reduce unemployment below certain levels without stimulating unacceptable inflation And, conversely, it appears that perfect stabilizing of price levels engenders an unacceptable level of unemployment

Hence, on the basis of joint political acceptability, a modest annual average inflation is virtually ensured, along with a modest level of unemployment

THE PHILLIPS CURVE *

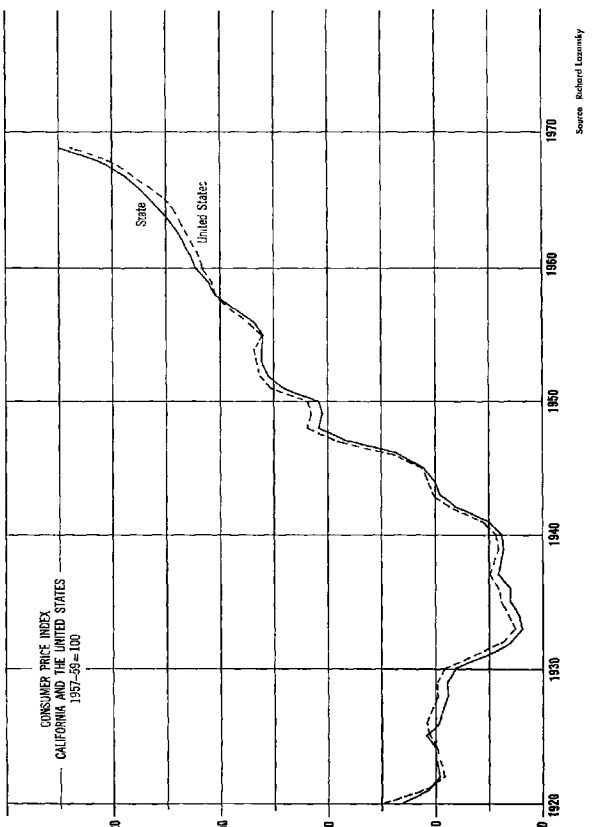
(A modified cost-push model of demander-seller inflation) [1]



* Source: Prof Robert Williams
1 The curve is drawn from actual data between the years 1961 and 1969

This model assumes an average increase in output per man-hour or productivity of 3 percent per year Thus, price stability (zero change) is possible with an increase in wage rates of 3 percent.

APPENDIX 2


CONSUMER PRICE INDEX
CALIFORNIA AND THE UNITED STATES
1957-59 = 100
State
United States
120
100
80
60
40
1920
1930
1940
1950
1960
1970
Source: Richard Lazarsky

PART IV

TERMINATION OF SOCIAL SECURITY COVERAGE

Findings:

Termination of the agreement between the State of California and the federal government providing for coverage of state employees under Social Security would:

1. Require an unpredictable increase in state funding.
2. Increase the financial disparity between the Public Employees' Retirement System and the State Teachers' Retirement System.
3. Mitigate against an individual's portability of retirement and insurance coverage.
4. Engender considerable approval among some state employees
5. Engender considerable opposition among other state employees.
6. Be irrevocable.
7. Be of uncertain long-term benefit to public service.

Recommendations:

1. The coordinated system of insurance and retirement benefits under the Public Employees' Retirement System and the Social Security system should remain unchanged
2. At some future time, the Legislature should, if requested, investigate the possibility of such legislation further

Appendix I: Staff memorandum to Chairman Deddeh—Comparative Summary of PERS and OASDI major provisions.

OASDI Termination

The committee met in San Diego on November 13, 1969, to discuss the merits of recent proposals to terminate the state's participation in the federal Social Security system and substitute an improved set of benefits in the Public Employees' Retirement System. Such a proposal was embodied in Assembly Bill 1949 of the 1969 Regular Session, authored by Assemblyman Eugene Chappie and sponsored by the California State Employees' Association.

During the course of the standing committee's hearing during the 1969 session and the interim committee's hearing last fall, it became apparent that the federal program is a highly complex and intricate system. Moreover, any decision to disassociate from Social Security would be irrevocable under current federal law. Thus, this committee and the Legislature as a whole should be absolutely convinced of the necessity for a change prior to enacting termination legislation

It should also be noted that retirement legislation decisions are not nearly as flexible as other kinds of policy decisions The difference arises from the fact that benefits are considered to be binding contracts by the courts and cannot be arbitrarily altered, except in the direction of improvement.

The termination proposal is also highly controversial, not only as to the policy involved, but even in terms of the facts. A good deal of the factual controversy arises because of assumptions which must be made as to what course the United States Congress might take in future years. This is important because the termination proposal provides a basic guarantee that a single state-operated program would provide benefits comparable to whatever Congress provides for Social Security.

Now is an appropriate time to consider the issues, as changes in the Social Security benefit structure have been a major legislative item in Congress this session. It is now known that Social Security retirement benefits will be increased by 15 percent next year, *without any increase in the rates paid by employees or employers.*

This "no rate increase with benefit improvement" is possible under the federal system. Unlike the Public Employees' Retirement System (PERS), the Social Security system (OASDI) is funded on a pay-as-you-go basis, with some reserves allowed to cover up to one year's benefits It appears that OASDI is now in a period where a large number of retired Americans who were, so to speak, grandfathered into the system either in 1937 or in 1951 are increasingly ceasing to be a financial deficit (benefits exceed contributions) to the system due to normal death rates. In effect, the proportion of active workers' payroll taxes going to support those who paid in very little during their working years is diminishing. And to the degree that the OASDI benefit structure has been deliberately held to a financially conservative posture, the opportunity is now afforded to Congress to do several things.

Congress could maintain the present benefit structure and reduce payroll taxes—both for employees and employers.

Congress could increase benefits, without increasing taxes.

Congress could combine both the above approaches.

There is a good possibility that Congress will increase benefits and eliminate the payroll tax increases that are currently scheduled to take place in the '70's and '80's.

If this possibility is borne out, it would appear that the cost analysis provided by the proponents of AB 1949 would have to be substantially revised on a long-term basis.

Another element of interest in this termination issue is the wide divergence of opinion with respect to the proposal itself. The proponents polled their membership in 1967 and found, on an overall basis, that some 51 percent were in favor of terminating the coordinated system However, the results of the poll were strongly influenced by each individual's then current status. State employees, who had previously elected to remain separate, were overwhelmingly in favor of termination. Other employees, who either chose coordination or who came into state service after 1961 and were automatically enrolled in PERS/OASDI coordination, voted substantially against the idea. It should be mentioned, however, that the 1967 poll did not spell out the concept of substituting equivalent benefits for currently coordinated members. During the 1969 session, while AB 1949 was under active consideration, the committee received a substantial volume of mail, both pro and con, on the issue.

The reasons for wide differences of opinion can perhaps be better understood by comparing and contrasting the two systems. PERS is basically an old age retirement system. Of the $118 million disbursed in 1968–69, some $100 million went for purposes related to old age: ordinary retirement, widows' continuances, and return of contributions. Only $18 million was paid for such insurance purposed as disability and survivor benefits.

If one includes the contributions refunded to former members, as the PERS accounts do, then the proportion of nonretirement to retirement benefits is even less—$18 million out of $155 million

In comparison, the committee learned that approximately 30 percent of federal payments go out for the three types of insurance incorporated in OASDI: disability, survivor, and hospital/medical.

Thus, in the relative value to employees, the state program, by itself, is particularly valuable to those employees who do not suffer midemployment emergencies The OASDI program places considerably more emphasis on alleviating midemployment financial problems and is, in this sense, much more of a social purpose system It was testified by both the Public Employees' Retirement System and the Legislative Analyst that they believed the coordinated system of PERS/OASDI, as it stands today, is valid, and should be maintained, on the basis that it covers both types of situations adequately; that is to say, those individuals needing midcareer help and those not so unfortunate.

The committee initially viewed termination as a "no cost" bill. That is, a transfer of benefits for those currently coordinated and an improvement in the retirement formula for uncoordinated employees—both financed through alleged savings to be derived by termination However, the recent passage of the federal bill improving retirement benefits by 15 percent in 1970 indicates that an entirely new set

of actuarial assumptions would have to be made before a termination bill could be adequately assessed.

Throughout our hearings, several witnesses drew our attention to the "portability" of Social Security coverage Portability means the ability of an individual to carry his retirement program with him when he changes employers. This is considered by retirement administrators, and by this committee, to be a desirable method for assuring adequate retirement protection, while providing flexibility in individual employment conditions We were informed that employees change employers most frequently to secure promotions or advancement, and that lack of portability would mitigate against such moves

Certain types of portability already exist between the PERS and other public systems It is operative for cities, counties and other agencies which contract with PERS for their own programs. It is also operative with respect to counties operating under the County Employees Retirement Act of 1937, and for some other public agencies However, there is a lack of portability between PERS and private employers, which supply trained manpower for state service

Again, from the standpoint of a career state employee, portability is a moot issue For others, it could be very serious as they would transfer to private industry without Social Security protection under termination.

Another issue which emerged from the hearings related to the State Teachers' Retirement System Assembly Bill 1949 proposed that the basic PERS formula be improved from a multiple of service years times 1.66 percent (the 1/60th formula) to a multiple of 1 82 percent (a 1/54th formula). Currently, the noncoordinated PERS service retirement formula and the STRS formula are identical—both employ the same factors In light of this fact, it is quite probable that improvememt in the noncoordinated state PERS formula occasioned by termination under AB 1949 would have decided effects, not only on the STRS, but quite likely on local agencies that contract with PERS In other words a demand would automatically be engendered to improve these other systems too, but an improvement based on comparativity rather than need and priority

Elsewhere in this committee report there is noted the proposed progressive improvement of safety member (police and firemen) benefits, starting in 1967 for 1937 act counties, adding the California Highway Patrol in 1968, and culminating in a proposal for local law enforcement (agencies contracting with the Public Employees' Retirement System) in the 1969 session

On a straight actuarial basis the State Teachers' Retirement System is already substantially unfunded Hence, it would require substantial state funding simply to put that system on the same basis as PERS currently enjoys Any improvement in the basic benefit formula would increase the cost further In this connection the funding issue is a real one and has been studied by the Board of Administration of the Teachers' System during the recent interim

In one respect at least, PERS and Social Security are identical They are both mandatory systems as far as state employees are concerned The exceptions for PERS are limited to exempt employees

not covered by civil service status, and the exception for OASDI includes pre-1961 state employees who chose not to coordinate.

In 1965, legislation was enacted which permitted pre-1961 employees a second chance to coordinate Some did. In 1969, another bill was passed which included a third chance Although this bill did not become law, its thrust was clearly incongruous with proposals to terminate the coordinated system

Some of the renewed interest in Social Security undoubtedly derives from the federal Medicare system adopted in 1965. Under present federal law, coverage is available for a few years for anyone, regardless of whether they are enrolled in OASDI or not However, there is a time limit on this, and after 1972, the coverage will not be available.

Assembly Bill 1949 included a provision that PERS would create a California version of Medicare At no time, though, was the committee able to uncover cost estimates on this aspect of the bill. Recent increases in the individual rates for medical (not hospital) service from $4 monthly to $5.30 indicate that it might well be even more expensive than presumed The medical component of the Consumer Price Index has grown faster than virtually any other one

Aside from philosophical considerations as to whether Social Security is "right" or "wrong," the issue of terminating the coordinated system is far too complex and unpredictable to support at this time. This is not to say that further factfinding and study might not lead to a different conclusion, possibly termination It does indicate that without overwhelming support from the prime sponsors of the legislation, the membership of the California State Employees' Association, termination at this time could have a drastic effect on employee morale throughout the state

There is no real finding that overwhelming support for termination exists There is evidence of both support and opposition which can be characterized as "adamant " This, combined with the irrevocable nature of a termination act, could lead to serious employment problems in the years ahead.

The proposal to terminate should not be acted upon at this time The committee would be receptive to further proposals in the future if it can be demonstrated, among other things, that no repercussions would result, if more predictable and comprehensive cost estimates can be developed, if the proposal takes into consideration that all public retirement systems are affected, directly or indirectly, by this concept, and that the proposal from a total long-term perspective is conducive to public service.

Appendix I

Memorandum
October 28, 1969

TO
Hon Wadie P Deddeh, Chairman

FROM:
Staff

Subject:
Your request for PERS/OASDI comparative outline

We have assembled the following items on which the PERS and OASDI systems diverge. The items generally cover specific programs offered, differences in relative emphasis, and the apparent legislative intent in each.

Both programs are considerably more involved, (e g special safety member provisions in PERS) and the items attempt to simplify and concentrate only on the most universally applicable provisions common to both systems.

1. Benefit Emphasis:
   - PERS· Primarily (90 percent) an old age retirement program.
   - OASDI. Mainly (70 percent) a retirement program, but also a significant insurance program (disability/survivor).
2. Retirement Computation:
   - PERS: Based on average of best three-year salary.
   - OASDI: Based on average lifetime salary
3 Disability Computation:
   - PERS Ninety percent of potential retirement allowance
   - OASDI· One hundred percent of retirement allowance.
4 Survivor Computation:
   - PERS. $90/spouse, up to $250 maximum per month.
   - OASDI: Fifty percent of retirement/spouse, up to $434 per month
5 Contribution Rates:
   - PERS· Variable from 5 37 to 11 25 percent (age and sex).
   - OASDI: 4 8 percent (first $7,800 only).
6 Retirement Emphasis:
   - PERS: Based solely on employee's salary.
   - OASDI· Higher/lower for married/unmarried

6a Policy Adjustment:
   - PERS: Straight actuarial
   - OASDI: Statutory formula skewed to lower income.

7. Transferability:
   - PERS: Among state, PERS cities and counties, 1937 act counties and school districts.
   - OASDI: All employers, except some out-of-state public employers.
8. Vested Rights:
   - PERS: After $500 contribution (1–2 years' work).
   - OASDI: After statutory covered quarters (40 maximum).
9. Old Age Health Coverage:
   - PERS: $8 monthly state contribution
   - OASDI: Medicare.
10. Recoverable State Expenses:
   - PERS Yes—On account of those withdrawing before retirement.
   - OASDI: No
11. Normal Retirement Age.
   - PERS: 60—Allowance adjusted down/up between 55 and 65
   - OASDI: 65—Allowance adjusted down between 62 and 65.
12. Cost-of-living Benefit
   - PERS: Automatic 1.5 percent per year, compounded (after three years).
   - OASDI: Ad hoc congressional action.
13. Disability Prerequisite:
   - PERS Inability in the particular position
   - OASDI. Unable to hold any gainful employment
14. Means Test:
   - PERS: No
   - OASDI: Yes—Up to age 73
15. Basic Philosophy (per official manuals):
   - PERS: Provide death, survivor and retirement plans comparable to those in other public employment and private industry.
   - OASDI: To keep individuals and families from destitution; to help attain economic and personal independence; to keep families together; to give children the opportunity of growing up in health and security

LOCAL SAFETY MEMBER RETIREMENT BENEFITS (AB 374)

Findings:

1. Uniform safety member retirement benefits are desirable from the standpoint of recruitment and retention.
2. Safety member benefits should be improved on the basis of a total perspective of safety member needs, rather than on the basis of the relatively limited cost consequences attributable to benefit improvement for certain safety member groups.
3. The AB 374 formula will place a significant tax burden on certain contracting agencies.

Recommendations:

1. Implementation of the retirement formula in AB 374 of the 1969 session should be facilitated with a state subvention of approximately $10 million
2. Consideration should be given to the legislative establishment of personnel and operation standards as a prerequisite to contracting agency qualification for a state subvention.

Appendix I: Staff Report on State Subvention

Appendix II: Survey of Local Tax Base Data

PART V

LOCAL SAFETY MEMBER RETIREMENT BENEFITS

A November 14, 1969, hearing in San Diego focused on a committee staff report (see Appendix I) covering issues related to a state subvention to contracting agencies of the Public Employees' Retirement System for part of the employer cost of AB 374, an unsuccessful bill of the 1969 session See Appendix II for additional staff information on city/county tax base data

AB 374 would have mandated an improved service retirement formula onto those agencies with safety members The costs of mandation were the subject of considerable controversy as was the issue of mandation itself (though the AB 374 mandation would not have been a prototype as the automatic cost-of-living formula offers a good example of predecessor mandation—see separate report).

The AB 374 proposal reflects the somewhat haphazard process of retirement benefit improvement proposals that come before the California Legislature This inharmonious situation in itself mirrors the fact that there are several public retirement system laws as well as different considerations affecting legislative proposals arising under these different laws For example, because changes in certain laws involve no state expense, safety member legislation affecting nonstate safety members bypasses the Assembly Ways and Means Committee and the Senate Finance Committee In effect, no special finance body measures fiscal impact on nonstate employers and employees The overall uneven pattern of safety member benefit improvement can perhaps best be explained by the fact that the protagonists or antagonists of given legislation are frequently different parties with different goals even though the same retirement law is affected. This procedure confuses policy and hampers the development of priorities

While this environment is conducive to an uneven improvement in retirement benefits, particularly with respect to proposals and final product in a given session, the pressures of recruitment and progress come into play over the intermediate term to engender proposed adjustments to eliminate disparity and achieve uniformity. The latter, however, is not easily attained because of the existing process—namely, separate laws, considerations, and interest groups

The safety member retirement benefit cycle among various employee groups covered by the different laws can be characterized as one where there is development of a new, specific benefit by a group, followed by adoption of the benefit by other groups, until this new benefit has become (or nearly so) a uniform benefit (followed again by the development of a special benefit and so forth) To reiterate, this process is shaped by different laws and different interest groups. Moreover the reason this same cycle is not repeated more frequently by miscellaneous members is the factor of numbers. There are relatively fewer safety members, so the cost of a new benefit is not as prohibitive. In addition, as safety member recruitment and retention is a statewide issue, uniform benefits are a legitimate goal, and therefore, the adoptive part of the cycle has some legitimacy. This legitimacy contributes to the extension of new benefits to excluded groups

In the 1967 session, safety members of counties under the County Employees Retirement Act of 1937 were successful in obtaining a new

service retirement benefit, virtually identical to the AB 374 benefit In the 1968 session, the process of adoption by other groups was evident as the California Highway Patrol achieved a benefit comparable to the 1967 county safety employees The cycle was heading toward uniformity as local safety members of agencies contracting with the Public Retirement System attempted through AB 374 to climb onto the safety member benefit cycle.

Apparently the local safety members' attempt at benefit comparativity involved the greatest cost burden to individual employers In this connection, the counties and the state were apparently better able to absorb the new benefit cost While this factor has not been proved in fact, it is logical from the standpoint of the state and seems to be indicated for both the state and counties from the nature of the relative opposition generated

In summary certain contracting agencies would have incurred significant additional cost as a result of the passage of AB 374

The arguments in favor of uniform or near uniform benefits for all safety members are convincing The service retirement benefit now applicable to county safety members and members of the California Highway Patrol is a progressive service retirement benefit which is appropriate to the demands of safety member service The need for uniform application of such retirement formula is evident in the Legislature's extension of the new benefit to members of the Highway Patrol With local safety members of contracting agencies subject to comparable demands, an extension of the formula to this group on the basis of occupational demands and recruitment seems warranted This extension would be in line with prior legislative policy

Contracting agencies can now permissively adopt the retirement formula contained in AB 374 With a view to the advantages of uniform safety member benefits and more importantly, the current demands of safety service, together with the public interest involved in such service, a state subvention to contracting agencies seems warranted

The subvention should not carry with it a mandation of the AB 374 formula It should, however, be of the magnitude that it would offer a reasonable inducement for adoption of the AB 374 formula

The subvention should, however, do something more than absorb some local agency costs The committee, therefore, will consider as a prerequisite to adoption of the subvention the necessity that an adopting agency should meet certain personnel and operation standards fashioned to the safety service occupational demands, and fashioned also in light of the public's interest in seeing that these demands are effectively fulfilled

In this connection, as such subvention would, therefore, carry with it state personnel and operation standards, the adoption of the subvention by a unilateral act of a contracting agency may not be warranted In this respect future consideration should be given to bilateral adoption on the part of the employer and affected employees

As the subject of standards was not covered at the interim hearing, the issue of standards as a prerequisite to adoption of the AB 374 formula with a subvention will be further developed by the committee at a later date

Appendix I

STAFF REPORT TO

COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

"Fiscal Implications of AB 374"

November 1969

Assembly Bill 374 was introduced during the 1969 session of the Legislature by Assemblyman E Richard Barnes The bill was sponsored by the Police Officers Research Association of California It would have mandated a safety formula onto contracting agencies

There are about 250 cities (relatively small) and 35 counties (also small), plus a number of fire districts which both presently contract with the Public Employees' Retirement System (PERS) for their retirement program and would have been affected by the bill The statutes covering benefits for contracting agencies are generally permissive, and the agency is generally free to make any type of contract it wishes, free to adopt one of the statutory formulas which presently apply to state employees or formulas specifically tailored for agencies

A similar mandatory safety benefit has applied to the California Highway Patrol since 1968, and since 1967 to safety members (police and firemen) in 14 of the 20 counties under the County Employees' Retirement Act of 1937 This benefit provides for retirement at age 50 with half-pay after 25 years of service Monthly retirement is calculated by multiplying 2 percent of final compensation (average of best three years) by the number of years of service.

AB 374 would have required equal benefits for the same kind of safety members employed by contracting cities counties and fire districts Of course, these agencies would always have an option to withdraw from the Public Employees' Retirement System and establish their own systems, if the fiscal impact of mandatory legislation were considered too severe by the governing board

AB 374 passed the Assembly, but failed in the Senate Committee on Governmental Efficiency Primary opposition came from the League of California Cities and the California Taxpayers Association The PERS Board of Administration position favored the proposal on the basis that it would equalize benefits for similar types of personnel, but the board did not actively "support" or lobby the bill

Testimony brought out a significant fiscal point While the average tax impact on most cities would have been on the order of 10 to 12 cents additional tax rate, a number of cities would have been required to boost property taxes by as much as 27 cents per $100 of assessed valuation. In addition, if such a city were in one of the 35 counties covered by legislation, an additional increase would be felt

There are two sources for the additional cost

1 An increase in employer and employee contributions to cover current salaries, and

2 A contribution—generally spread over 30 years—to amortize the credits built up for service rendered prior to the increased benefit

It appears that unusually high longevity of service accounts for almost all of the excessive cost that would have been experienced by some agencies A city police force, with a large percentage of older men, would face much higher retirement costs fairly soon—without having had time to build up its reserves or collect higher contributions from the people retiring.

Conversely, a young and rapidly growing city would have relatively few years of prior service in the aggregate, and the immediate tax cost would be much less.

Another factor affecting tax costs is the per capita tax base of the agency. Among the 35 counties which the bill affected, there is relatively little deviation in tax base, but a much greater deviation exists among cities Kern County as a whole, for example, is relatively well off, due to oil and gas fields in the western part of the county. But the City of Bakersfield enjoys no such advantage. Those cities which would have experienced the greater costs from enactment of AB 374 would appear to combine the liabilities of a large amount of prior service credit due its safety employees with a relatively poor tax base to finance the program It was reported that San Bernardino would have experienced a 27 cent increase in city taxes

There is, however, a mitigating factor in the long run Prior service credit can be considered a fixed dollar cost, while the source of revenue is not. Indeed, it is growing at an average rate of 5 percent per year throughout California Thus, even if an agency were required to levy 20 cents the first year to amortize prior service credit, the natural growth in the tax base would reduce the next year's added rate to 19 cents—then to 17 9 cents the third year with decreases in the rate continuing thereafter

Current and future service is also a cost to the agency, and here, the population trends are important To some degree, police and sheriffs' departments are staffed on a population formula—that is, one man for 500 to 750 or 1,000 people The growth of population throughout California has slowed considerably in recent years. Birth rates are down so far that in spite of a larger population now than in 1963, there are actually fewer children in kindergarten than there were last year. Additionally, it appears that high levels of employment in recent years have drastically cut the in-migration from out-of-state

Thus, if current trends were to continue, (and assuming that local staffing ratios remain constant) local tax bases will grow faster than the current service which accrues This would also allow gradual reduction in tax rates, unless the agency itself offsets the advantage by raising salaries.

The basic policy consideration for the Legislature is whether equalization of retirement benefits should be a major goal By its action in approving AB 374 in 1969, the Assembly Committee on Public Employment and Retirement, by implication at least, answered in the affirmative. Nevertheless, it would appear wise to reaffirm such a policy specifically, before concentrating on methods to achieve the goal.

Assuming, then, that the legislative policy of this committee favors equalization of benefits, the staff would suggest a series of alternative avenues by which to proceed.

1. Reapprove a bill at the 1970 Session without change
2. Mandate the improved formula to be used only for current and future service.
3. Mandate the formula, but limit the amount of prior service to be credited at the improved rate.
4. Require individual purchase of all or part of prior service.
5. Provide the full benefit, but with a state equalization formula designed to offset excessive costs to some areas.

Probable responses to the alternatives offered would seem to include continued opposition by the League of California Cities to No. 1, some opposition of the bill's sponsors to Nos 2. 3 and 4 and opposition of State finance officials to No 5

Up to this point, it has not been possible to cite any hard figures on the total dollar or tax rate costs of AB 374 One difficulty is that the data processing system used by PERS is admirably constructed for administrative purposes, but does not lend itself readily to legislative purposes The PERS deals primarily with individual people, regardless of employer, and their data bank (storage of computer data) is arranged by Social Security number. It is not arranged by legal entity, and a considerable sorting and calculating endeavor would be necessary to provide the Legislature with cost figures arranged by agency. The chairman has requested, nevertheless, that PERS attempt to provide estimates by next June, and PERS indicates it will attempt to comply.

Parenthetically, PERS has requested budget funds to develop a data bank in a form more useful for legislative and local agency purposes, and the committee may wish to consider a recommendation to support this request There is precedent for this, as in 1966, the budget of the Department of Education was augmented for the specific purpose of creating data banks arranged by school district, primarily for the purpose of being able to make timely estimates on the potential costs of various school finance bills

The staff has attempted to generate total cost estimates using some known data, and reasonable estimates of important variables. We do know that about 23,000 contracting agency safety members would be affected by AB 374 We estimate (generously) that an average salary of safety members is about $10,000 annually. We have been informed that the bill would add approximately 10 percent of salary to the agency's retirement costs (this includes both prior and future service). Thus, it is reasonable to say that the total annual dollar cost might run as high as $23 million, plus perhaps $5 million to individuals For individuals, we have assumed a current average contribution rate of 7 percent, going up to the proposed AB 374 flat rate of 9 percent (existing rates are variable)

From the list of cities and counties which were affected by the bill, we have computed a total assessed valuation in 1968 of $25.5 billion. The aggregate tax base of all the fire districts is unknown, but we assume they are but a minor part of the issue

Computing the average tax rate required to be levied on a $25 5 billion tax base in order to raise $23 million, we find that a rate of nine cents is necessary. However, this is purely a statistical average, and the actual rate on a taxpayer would be higher if he lives in a city and less if he doesn't Details are provided in the appendix

Again, these are slightly high estimates, since we have added the fire district employees into our aggregate costs, but we have not included the tax base they generate.

The primary purpose for developing these estimates is to provide the committee with a measure of the extent to which state aid would be needed to implement some version of Alternative 5, possibly combined with aspects of Alternatives 3 and 4.

The staff offers the suggestion that the most appropriate type of state aid combines two characteristics

1 It should equalize tax loads on local agencies, and
2 In this kind of function it should "terminate" at some future date

Since it appears that the chief cause of widely fluctuating local tax costs is due to excessive prior service credits—and since prior service is a fixed and terminal cost—it would seem most appropriate, if the committee wishes to consider a state subvention for AB 374, to concentrate on this segment of cost

In the data which was developed for the hearings—both by the staff and by the league—a pattern of local tax costs seems to emerge This pattern, if borne out by more rigorous PERS analysis next spring—seems to show a relatively equal tax cost for a large majority of the agencies It appears that the tax impact on most cities varies in a fairly narrow range from 8 to 12 cents additional rate

However, a small number of cities would have had to raise rates as much as 27 cents

If the total governmental cost is accurately estimated at $23 million annually, if approximately half this cost is due to amortizing prior service over a 30-year period, and if only 10 to 20 percent of the agencies would experience abnormally high tax costs, it would appear that a state subvention, based on a reasonable local tax rate accountability, would cost the General Fund possibly $1–$2 million in the first year, decreasing as local tax bases rise faster than population, and terminating after no more than 30 years

Most agencies, with only average or below average costs, would receive no state aid at all Some would receive if for a short time, some for longer

Since the staff cannot present the committee with hard and fast data at this time we can only suggest that the committee might wish to consider a tentative recommendation which would be conditional upon reasonable confirmation of our estimates by PERS next spring

Such a recommendation could be phrased in the following form

"We recommend the enactment of the proposal contained in AB 374, with the following provisions

1 An equalization subvention formula to be developed to benefit only those agencies experiencing an excessive tax rate cost

2 The initial annual cost to the General Fund be less than $_____ million"

The discussion above has assumed a secondary policy, largely on the basis of historical precedent The proposal assumes that local safety members should not be held responsible for any of the cost of crediting their prior service under the new improved benefit formula

The precedent was established when employees under the County Employees Retirement Act of 1937 were not required to contribute toward prior service, and it was reaffirmed when 1968 legislation granted similar benefits, without financial obligation, to Highway Patrol members.

On the other hand, the committee adopted a different policy during the 1969 session with regard to teachers In approving AB 1148 (Ded-

deh) which reached the Governor's desk, a form of prior service credit was granted on account of out-of-state teaching. However, eligible teachers were required under that bill to make a normal contribution based on either their first California salary or the current statewide minimum salary of $6,000, whichever was higher.

In practice, this would have required a total contribution of about $2,000 in order to claim the full three years' maximum credit

The proposal we have outlined above could be made less severe to both the state's General Fund and to contracting agencies by requiring some contribution by members for prior service The benefit proposed in AB 374 increase the basic formula by approximately 10 percent in that the retirement allowance is computed on the basis of 2 percent per year of service, rather than the 1/55th formula, or 1 82 percent per year

It can be argued that local safety members agreed to the 1/55th concept in accepting employment, made contributions on that basis, and that an increased benefit (the 2-percent proposal) should be prospective only. However, such a system would seem to be very cumbersome administratively Complex computations would have to be made to calculate both a prior service pension based on the 1 82-percent formula and the ex post facto service based on 2 percent

As an alternative to the first proposal, both state and local agency costs could be lowered somewhat by requiring some contribution by employees toward prior service credit The local savings would accrue to those agencies which did NOT qualify for any state subvention, while the state savings would accrue on account of those agencies which did Such an addition would further reduce the state cost under a subvention bill

By way of conclusion, the staff would like to point out the public employment implications of this proposal as well An improved retirement system may increase recruitment or more likely retention in the local agencies. On the other hand, the 1937 law counties and the Highway Patrol would lose the relative advantage they now enjoy in recruitment. From a strictly state point of view, it might be well to condition approval of this proposal on a statement from 1937 law counties and the Highway Patrol that the enactment of such a bill would not seriously or even perceptibly diminish their own recruiting and retention efforts

APPENDIX TO STAFF REPORT

The following data on tax costs were derived from (1) the annual report of the Public Employees' Retirement System, June 1968, and (2) the 1968 annual report of the State Board of Equalization. Of the 21,503 local safety members listed by PERS, we have excluded 929 (firemen in local fire districts) because the tax base data is not available from SBOE. This leaves 18,723 city members and 1,851 county members

Impact on the Counties

The 34 counties contracting with PERS for safety members had a combined assessed valuation of $7,651,342,000. In estimating the potential tax costs (this excludes out-of-pocket costs to members), we derive two estimates, based on informal advice from PERS We assume an average salary of $10,000 per year, and on this basis we estimate a tax cost of between $1,000 and $1,500 per man.

PERS shows 1,851 county safety members At $1,000 each, the tax costs would be $1,851,000. The resultant increase in the average county tax rate in these 34 counties would be 2 4 cents.

If we assume the higher cost per man, the resultant tax increase average would be 3 6 cents on the county rate.

Impact on Cities

The cost for the 18,723 city safety members must be financed by a relatively lower tax base. The SBOE data show a combined tax base of $17,892,080,000 for the 251 cities The initial observation is that while this is more than twice the county tax base, the number of safety members is 10 times as great.

Using the $1,000-per-man cost estimate, the average increase in city taxes would be 10 5 cents If we estimate $1,500 per man, the result is an average increase of 15 7 cents.

Taxpayer Impacts

The impact on individual taxpayers will vary according to his residence location If he lives outside a city, the impact would appear to be in the 2 4–3 6-cent range Other taxpayers live in affected cities, but their counties are in other retirement systems Their impact would be in the 10.5–15 7-cent range For those taxpayers living in both a city and a county affected by the bill, the combined impact could vary from 12.9 to 19 3 cents, on the average.

Currency of Data

The data supporting the tax cost estimates is 1968 data. However, with the annual increase in property assessments averaging over 5 percent per year since the passage of AB 80 in 1965, we would think that the margin of error, if any, would be on the high side of estimated costs We believe that the 1970 data, if it were available, would not show material changes in the estimates.

Long-Term Impact

The long-range tax impact of the bill is considerably less than the above figures would indicate. PERS estimates that approximately half

the cost would be to finance the prior service credits of members. This is a terminal cost with a fixed dollar value—as contrasted with a constantly rising tax base. Thus, the tax rate cost for amortizing the prior service share would steadily diminish by about 5 percent per year, indicating a reduction to zero in 20 years

At this point, the tax rate impact would be approximately one-half of the estimates shown above.

However, we would not expect the tax rate cost for current service to diminish. The number of new safety members is unlikely to increase by the 5-percent growth in the tax base, but it seems likely that salaries will be adjusted upward in some proportion to the cost-of-living. Hence, the total cost of new personnel and salary increases is likely to match the growth in tax base—thereby offering no long-term rate reduction

We would note, however, that the decisions on numbers of safety members and their salaries are totally within the discretion of the employing agency. If the cost-per-man impact is somewhere between 10 and 15 percent of salary in the first year, this may induce local agencies to delay or reduce ordinary pay raises for a year or two as as an equalizing offset

Appendix II

Memorandum

To. Honorable Wadie P. Deddeh

From: Staff

Subject: City/County Tax Base Data

The statistical material enclosed was compiled to provide some basic background data on the fiscal implications that changes in law might hold for city or county property tax levels.

Excluding both abnormally high tax bases of Alpine, Colusa, Mono and Plumas Counties, the range from high to low is on the order of 1.28—i.e. the wealthiest county has 2.8 times the per capita tax base as the poorest.

Statewide city tax bases per capita are readily available only after a decennial census. Some are updated at local expense during the interim in order to qualify for higher state subventions. The sample of 1968 updates indicates that ranges of city tax bases are higher. In Orange County, the ratio was 1 35, and for the entire sample, the Suisun City/Cerritos ratio was 1 11.4 The poorest PERS city in the sample is Fairfield, with a ratio of 1·10.4 compared to Cerritos, which also contracts with PERS.

Property Tax Base per Capita—California Counties—1968

5—Alameda	$2,122	4—Orange	$2,445
1—Alpine	11,497*	2—Placer	3,011*
1—Amador	4,422*	1—Plumas	7,116*
3—Butte	2,638*	4—Riverside	2,489*
1—Calaveras	4,886	5—Sacramento	1,912
1—Colusa	6,344*	1—San Benito	3,987*
3—Contra Costa	2,854	5—San Bernardino	2,188
4—Del Norte	2,356*	5—San Diego	1,892
1—El Dorado	3,938*	2—San Francisco	2,932
4—Fresno	2,348	4—San Joaquin	2,356
2—Glenn	3,894*	4—San Luis Obispo	2,440
4—Humboldt	2,398*	2—San Mateo	3,005
4—Imperial	2,480	3—Santa Barbara	2,548
1—Inyo	4,372*	4—Santa Clara	2,404*
2—Kern	2,932	3—Santa Cruz	2,659*
4—Kings	2,468*	2—Shasta	3,166*
1—Lake	4,428*	2—Sierra	3,918*
5—Lassen	1,976*	3—Siskiyou	2,662*
4—Los Angeles	2,459	5—Solano	1,921*
2—Madera	3,433*	5—Sonoma	2,294
3—Marin	2,710	5—Stanislaus	1,892
1—Mariposa	4,100*	2—Sutter	3,743*
4—Mendocino	2,477	2—Tehama	3,138*
5—Merced	2,316	5—Trinity	2,236
1—Modoc	4,311*	3—Tulare	2,523
1—Mono	8,678*	2—Tuolumne	3,267*
4—Monterey	2,423*	3—Ventura	2,650
5—Napa	1,912*	3—Yolo	2,709*
2—Nevada	3,010*	5—Yuba	1,768*

NOTES

* = Contracts with PERS for retirement program

Statewide mean (weighted average) is $2,459.

Statewide median (unweighted rank) is $2,660½

Sources of Data:

Department of Finance, Board of Equalization

First column ranks mean

1—Top fifth in wealth

2—Above average

3—Average.

4—Below average.

5—Bottom fifth in wealth

PERS counties	N	Range
Rank 1	11	$3,938–$11,490
Rank 2	9	2,932– 3,910
Rank 3	4	2,523– 2,850
Rank 4	6	2,356– 2,480
Rank 5	4	1,768– 2,310

Per Capita Tax Base of Selected # Cities (with 1968 population data)

County City	Base
Alameda	
*Fremont	$1,917
*Livermore	1,844
†Newark	1,994
*Pleasanton	2,197
Contra Costa	
*Antioch	1,565
Concord	1,697
*Martinez	2,529
*Pinole	1,605
Walnut Creek	2,983
Fresno	
Fresno	1,525
Los Angeles	
†Cerritos	9,882
La Puente	1,054
Los Angeles	2,395
*Montebello	2,641
†San Dimas	1,589
Marin	
*San Rafael	3,379
Merced	
Livingston	1,122
Napa	
*Napa	2,046
Orange (complete)	
*Anaheim	2,607
*Brea	2,531
*Buena Park	1,994
Costa Mesa	2,162
*Cypress	1,801
*Fountain Valley	2,073
*Fullerton	2,674
Garden Grove	1,580
*Huntington Beach	2,869
*Laguna Beach	3,987
*La Habra	1,841
*La Palma	2,442
*Los Alamitos	1,883
*Newport Beach	5,405
*Orange	2,047
*Placentia	1,925
San Clemente	2,845
San Juan Capistrano	4,972
*Santa Ana	2,139
*Seal Beach	3,083
*Stanton	1,722
*Tustin	2,419
Villa Park	3,429
*Westminster	1,554
Yorba Linda	2,128
Riverside	
*Corona	2,479
San Bernardino	
*Ontario	1,576
*San Bernardino	1,946

County City	Base
San Diego	
*Chula Vista	$2,379
*Escondido	2,098
*La Mesa	1,999
*National City	1,048
San Diego	1,796
San Francisco	
San Francisco	2,932
San Joaquin	
*Lodi	2,048
Manteca	1,496
*Tracy	1,769
San Mateo	
*Pacifica	1,453
Santa Barbara	
*Lompoc	1,303
*Santa Maria	2,010
Santa Clara (complete)	
*Campbell	1,958
*Cupertino	2,701
Gilroy	1,926
*Los Altos	2,942
†Los Altos Hills	3,934
Los Gatos	2,639
*Milpitas	2,062
Monte Sereno	2,797
*Morgan Hill	2,258
*Mountain View	2,963
*Palo Alto	4,673
San Jose	2,114
*Santa Clara	2,087
†Saratoga	2,872
‡Sunnyvale	2,661
Santa Cruz	
Capitola	2,402
*Santa Cruz	2,593
*Watsonville	2,355
Solano	
*Fairfield	952
Suisun City	867
*Vallejo	1,384
Sonoma	
*Rohnert Park	1,439
Stanislaus	
Turlock	1,621
Tulare	
*Visalia	2,089
Ventura	
*Santa Paula	1,585
Yolo	
*Davis	2,253
*Woodland	1,760

* = Contracts with PERS.
† = Contracts for miscellaneous members only.
‡ = Contracts for safety members only.

 # Special caution on interpretation

This sample is NOT representative of all the 400 cities It is purely for individual information purposes

The cities included are those which did a census during 1968, updating the 1960 census The main purpose of an update is to qualify for higher state subventions It would appear that only the rapidly growing, poor cities invest the funds necessary for an update

Note that the few relatively wealthy cities (Palo Alto or Newport Beach) are in Santa Clara or Orange counties where a complete county-wide update was done in 1968 Both counties are growing rapidly and are below average in the overall county tax base per capita (See list on counties)

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ASSEMBLY INTERIM COMMITTEE
ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS

1969 INTERIM REPORT

MINIMUM VOTING AGE/AGE OF MAJORITY

Published by the

ASSEMBLY
OF THE STATE OF CALIFORNIA

LETTER OF TRANSMITTAL

The Honorable Bob Monagan
Speaker of the Assembly
and Members of the Assembly

Gentlemen:

Your Interim Committee on Elections and Constitutional Amendments herewith submits a report on minimum voting age and the age of responsibility pursuant to House Resolution No. 14 of the 1969 Regular Session of the Legislature.

Your committee found some support for reduction in the voting age but became convinced that such action could best be approached through resolution of the larger issue involving the age of responsibility or majority. This more fundamental approach should facilitate development of a more equitable, and indeed more practical, decision. Your committee recommends that a select committee be appointed to formulate specific proposals in this context.

The committee wishes to acknowledge and express its appreciation for the work done by the committee staff in the conduct of this study and the preparation of this report. In particular, Miss Lari Sheehan, who assisted in all phases of this study and prepared the excellent background papers, is to be commended

Respectfully submitted,

PAUL PRIOLO Chairman *	LEO T. MCCARTHY Vice Chairman
WILLIE L BROWN, JR	JERRY LEWIS
ROBERT H BURKE	GEORGE W. MILIAS
CHARLES J. CONRAD	FRANK MURPHY, JR.
ROBERT W CROWN	DAVID A. ROBERTI
JAMES W. DENT	HENRY A. WAXMAN
ALEX P GARCIA	

* While all of the conclusions included in the report received the support of a majority of the members of the committee, the listing of names on the letter of transmittal is not intended to imply support of each recommendation by every member of the committee

TABLE OF CONTENTS

REDUCTION OF THE VOTING AGE/AGE OF MAJORITY

I. INTRODUCTION

Pursuant to House Resolution 14 (Priolo), the 1969 Interim Committee on Elections and Constitutional Amendments was directed to conduct an in-depth study of the question of the optimum age of legal majority including the appropriate minimum voting age. The resolution directed the committee to provide the Legislature with a comprehensive analysis based upon public hearings and staff research (Attachment 1).

II. BACKGROUND

Historical Rationale for the Age 21

Twenty-one appears to have been adopted as the age of majority during 10th- and 11th-century England. During this fabled age of chivalry new emphasis was placed upon training in arms and military service; newly sophisticated armor evolved and the weight of the armor a young knight wore was substantially increased.[1] These developments combined to support contentions that a young man would lack sufficient strength and ability for knighthood prior to the age of 21.[2] So it came to be recognized that a young man gained the right to bear arms—and his majority—at the age of 21. A precedent was set which has, in most instances, remained unchallenged.

U.S. Voting Privilege History

The United States Constitution gives the states, with certain limitations, the right to establish voter qualifications. One of those qualifications traditionally dependent upon state determination has been the minimum age which its citizens must attain to become qualified electors. In California the minimum voting age is presently set by the State Constitution at 21 (Article II, Section 1)

Today, in California and elsewhere, many young people are actively seeking a lowered voting age This is not a new phenomenon. Young people have actively sought the franchise in this country since World War I; their advocacy has enjoyed increased support with the onset of each ensuing military conflict Gallup polls reporting nationwide support for lowering the voting age show that in 1943, at the peak of U S involvement in World War II, 43 percent of the American public favored lowering the voting age This compares with a prewar support level of 17 percent in 1939 During the Korean conflict that percentage increased significantly to 63 percent in 1953 (Attachment 2) Public support has climbed to a high of 64 percent during our present involvement in Vietnam.

[1] Gilbert Stuart, *Society in Europe* (1778), p 56.
[2] St. Palaye, *Memoirs of Ancient Chivalry* (1759), transl 1784, p 42

Four states now permit persons under 21 years of age to vote. Georgia, the first state to do so, lowered its voting age requirement to 18 in 1943, during World War II In 1955, following the close of the Korean conflict, Kentucky became the second state in the Union to lower the voting age—also to 18 In 1959, Alaska and Hawaii were both admitted to the Union with voting age requirements below 21: Alaska set the minimum voting age at 19, while Hawaii opted for a perhaps less generous minimum voting age of 20

Twenty foreign countries have also adopted a reduction in the voting age: Great Britain, West Germany, Israel, Mexico and eight of her Latin American neighbors, and eight Communist countries

The Decade of the 60's

Many college students and other American young people have become increasingly aware of political and governmental issues during the 1960's As exemplified by youth activity in the 1968 presidential campaigns, these young people have pursued a voice in decision-making far more actively than did their predecessors It may have been this increased level of interest and activity among young people which prompted unanimous support among the 1968 candidates for lowering the voting age President Nixon has advocated an adoption of an 18-year-old minimum voting age in federal elections Presidents Johnson, Kennedy, Eisenhower and Franklin Delano Roosevelt also voiced support for a reduced minimum voting age, as did a minority of the Congress in support of major efforts in 1953, 1954, 1957 and 1967

Official and public support have now sufficiently jelled that in 1969 the Legislatures of 15 states voted to place constitutional amendments proposing to reduce the voting age on the state ballot In two of these states, Ohio and New Jersey, ballot measures were defeated in November of 1969 In Ohio, 51 percent of those voting on the question opposed lowering the voting age to 19 (1,218,175 yes to 1,267,422 no). The New Jersey proposal, which would have set the minimum voting age at 18, was rejected by a margin of 71 percent (760,896 yes to 1,820,940 no). In the 13 remaining states amendments will be voted on in 1970

The defeat of the minimum voting age proposals in Ohio and New Jersey, coupled with earlier defeats in Nebraska, Maryland, North Dakota and Michigan, tended to corroborate testimony presented to the committee which seemed to indicate that a minimum voting age of 19, rather than 18, would be more acceptable to the American public Advocates of this point of view noted that most young people, by the age of 19, have abandoned the protective and secure atmosphere of the parental environment The experience of a year of college studies, work, or military service may apparently give a 19-year-old an awareness and insight not normally afforded a person of 18 years of age

The Ohio and New Jersey defeats also give credence to the argument that dissent among college students and other young people, which on many occasions has become violent rebellion against educational institutions and the so-called "establishment," has disconcerted the taxpaying voters of the nation It seems clear that American youth, by the manner in which it has pursued a role in the decision-making processes, has

sacrificed a great deal of the respect, trust, and confidence once afforded it by the adult community

Tension and distrust among the young and the old are indeed evident Several committee witnesses questioned whether young people, given the opportunity, would have the patience to work within the system, and asked whether youth should be asked to demonstrate its ability to accept the responsibilities of adulthood prior to receipt of adult privileges.

The California Experience

The first legislative constitutional amendment to reduce the voting age in California was introduced in 1947 Since that time, 29 similar constitutional amendments have been introduced in the Legislature, and four initiative petitions have been circulated All of these have failed to reach the ballot, thus denying the California electorate an opportunity to express its sentiments A fifth initiative petition, facing an effective filing deadline of April 6, 1970, is currently being circulated.

A February 1969 Field Poll indicated that for the first time a 53 percent majority of the California electorate favored a reduction of the voting age to something below 21 (Attachment 3) A similar poll taken in February of 1967 reported support for such a proposal at 43 percent in California compared with a national support level of 64 percent It appears that California voters are behind but are following a national trend in favor of lowering the voting age

During the 1969 Regular Session of the California Legislature, six constitutional amendments proposing a lowered voting age were introduced One of these, Senate Constitutional Amendment No 2 (Moscone) was refused passage on the Senate floor The other five, which were Assembly constitutional amendments, were heard by the Assembly Committee on Elections and Constitutional Amendments and taken under submission for interim study One of these measures, ACA 5, by Assemblyman Bill Greene, proposed a minimum voting age of 18 restricted to servicemen, two proposed an across-the-board reduction in the minimum voting age to 18 (ACA 18—McGee and ACA 37—Vasconcellos), and two proposed lowering the voting age to 19 (ACA 10—Deddeh and ACA 17—Briggs)

Apart from legislative action on the minimum voting age question, the California Constitution Revision Commission has indicated to this Committee that its revision of Article II (Suffrage and Elections) will include a recommendation for reduction of the voting age to 19 This recommendation will be part of the Commission's third and final revision proposal which will be submitted to the Legislature during the 1970 session

III. WHY THE STUDY OF THE AGE OF MAJORITY?

As indicated earlier, HR 14 (Priolo) directed the committee to evaluate proposals and public sentiment favoring a reduction in the age of majority This larger question—consideration of the age of majority rather than the age of franchise—was predicated upon historical evidence that electors are unwilling to lower the voting age without simul-

taneous consideration, if not action, on the appropriate responsibilities of adulthood.

It is interesting to note that only Maine, among the 13 state legislatures similarly concerned, has approached the minimum voting age question in this context. While the people of Maine will not vote until November of 1970 on whether or not the franchise should be extended to 20-year-olds, the Legislature has already accepted statutory changes affecting a similar reduction in the age of majority. (Chapter 433, Public Law of Maine; signed by the Governor, June 26, 1969; effective October 1, 1969)

IV. THE COMMITTEE APPROACH

Hearings

The committee conducted a statewide series of eight hearings between September and December of 1969. The committee met in San Diego, Monterey, Fresno, Los Angeles, Riverside, Chico, and twice in San Francisco. This hearing schedule permitted the committee members to gain wide exposure to variations in public opinion throughout the state and facilitated maximum public participation in the committee's work. The committee felt strongly that submission of a ballot proposal, without so gaining a "sense of the people," might well constitute little more than a futile effort which might possibly result in additional frustration among the young and increased tension between the generations.

Witnesses

The committee solicited testimony from a broad spectrum of the public: academicians; attorneys; superior, municipal and juvenile court judges; legislators, high school and college students; local government officials; businessmen; police and probation officers, spokesmen for state agencies concerned with enforcement of the present statutory rights and obligations of the 18–21-year-old group; and spokesmen for civic groups, the clergy, and various other professional organizations. The committee also welcomed testimony from a number of private citizens testifying on their own initiative. Although many of the witnesses came prepared to participate in a discussion relating strictly to the narrower question of minimum voting age, all were encouraged to expand their comments to include consideration of an across-the-board reduction in the age of majority.

Participation on the part of young people was noteworthy by its absence Even those groups of young people organized to advocate lowering the voting age showed little interest in the committee's study. For the most part, the committee found that a majority of the young people who responded to the committee's work were high school students.

The testimony of one San Rafael High School student suggested that interest in participation may peak in high school civics, and that the three-year delay between graduation and the age of 21 could be responsible for the decreased interest or fervor among college and non-college youth alike This student also suggested that recognized voter apathy among people in their 20's might also be a direct result of the three-year waiting period between high school civics and the franchise. A lesser interest among college students may also be attributable to

the fact that a majority would be 21 years of age and thus eligible to vote by the time the ballot calendar would permit any reduction in the minimum voting age to become effective

V. RESEARCH AND TESTIMONY

Existing Law

California statutory law maintains important distinctions between those over and under the age of 21 The committee staff therefore prepared an outline of relevant policy questions for the committee's use in evaluating statutory protections, obligations, and limitations which minors now enjoy (Attachment 4) This outline and hearing testimony uncovered critical inconsistencies in the present law

Occupational Licensing

Existing law requires that an individual be at least 21 years of age in order to obtain a license to pursue certain professions and occupations Examples include: law, dentistry, psychology, pharmacy, certified public accounting, California Highway Patrol, game warden, and landscape architecture In view of educational and examination requirements, continuation of the age stipulation seems superfluous

Juvenile Court v. Adult Courts

The juvenile court system serves as another example of the inconsistencies in existing law As provided in the Welfare and Institutions Code, the juvenile court system was established for rehabilitative services for young lawbreakers, under the age of 21, and to protect them from the severity of "adult" punishment and contact with adult criminals Testimony presented to the committee indicated, however, that in actual practice a judge *may* grant a juvenile court hearing but *in most cases* 18–21-year-olds are tried and punished in superior or municipal court

Further testimony by John E Dutton, Judge of the Municipal Court, Santa Clara County, indicated that in practical operation the law and the court system may put limitations on an 18–21-year-old's ability to protect and defend himself, thereby discriminating against the entire age group In explanation the judge cited a situation wherein a public defender may refuse to serve as counselor for an 18–21-year-old whose parents have the financial ability but refuse to hire private counsel.

Marriage

The area in which existing law appears most blatantly inconsistent and arbitrary is in the manner in which it differentiates between married and unmarried minors Eighteen-year-olds who have legally contracted marriage lose the common-law disabilities of minority and become emancipated minors enjoying all civil liabilities and rights save those relating to voting and drinking On the other hand, unmarried 18–21-year-olds retain the common-law disabilities of minority until they legally contract marriage or reach 21 years of age

A Chico State College student who testified before the committee pointed out that while the groom requires parental consent to marry prior to the age of 21, the bride may do so without parental consent

at the age of 18. The student also pointed out that the law was discriminatory and arbitrary in the placing of emancipated married minors in a category different from that in which unmarried 18–21-year-olds find themselves

Additional testimony on this subject was offered by Professor Bodenheimer of the University of California Law School and is summarized as follows:

	Unmarried 18–21-year-old	*Married 18–21-year-old*
Contractual liabilty	Can disaffirm a contract	Cannot disaffirm a contract
Delegation of power	Cannot give a delegation of power	Can give a delegation of power
Enforcement of rights	May enforce rights by civil action or other legal proceedings in the same manner as an adult, except such action must be conducted by a guardian	May conduct own legal action for enforcement of rights: guardian is not required for conducting action
Party to civil action	When party to civil action, must be represented by a guardian	Need not be represented by a guardian in civil action
Control over assets and earnings	Estate must be handled by a guardian	Can handle own estate
	Proceeds from sale of interest held in name of unmarried 18–21-year-old paid to guardian and placed in trust until minor reaches 21 years of age	Proceeds paid directly to the married 18–21-year-old person.
	Unmarried persons between 18 and 21 years of age do not have exclusive control over their assets and earnings	Married persons between 18 and 21 years of age do have exclusive control over their assets and earnings
Residence	May not establish legal residence separate and apart from parents or guardian	May establish legal residence separate and apart from parents or guardian
Civil liability connected with operation of a motor vehicle	Parent or guardian of unmarried 18–21-year-old is civilly liable for any negligence or willful misconduct of that person while he is operating a motor vehicle.	Married 18–21-year-old is personally liable for any negligence or willful misconduct he commits while operating a motor vehicle

A More Mature 18-Year-Old

Those young people appearing before the committee impressed the members as possessing the maturity and capability necessary for assumption of the responsibilities and privileges of majority Many witnesses agreed that most 18–21-year-olds today are better able to assume the burdens of majority than were their parents Witnesses indicating this belief cited the influence of education, the mass media, greater financial independence, and military liability, as responsible for the increased maturity in today's youth.

Desire to Accept Responsibility

Young people testifying before the committee voiced a desire to accept the responsibilities of majority. A college student at Chico State expressed the view that voting and majority were part and parcel of a single package which youth stands ready and willing to accept

Although most of the young witnesses agreed with this viewpoint, discussion with the committee members indicated that these young people, as well as perhaps the majority of the adult population, remain uninformed as to the realm of responsibility they would be accepting. It was, therefore, the committee's opinion that any reduction in the age of majority may warrant alterations in high school curricula in order to further educate and better prepare young people for the responsibilities of adulthood

Testimony of State Agencies

Each state agency and commission having any interest in the minimum voting/majority age question was invited to testify before the committee The summary of their testimony, in which they voiced divided opinions, is appended (Attachment 5).

Political Persuasion

The committee found no evidence to substantiate suggestions that voting young people might adopt ideological or partisan persuasions far afield from those of their parents With their ballot choices largely determined by the environment in which they have matured, a massive influx of young voters appears unlikely to bring about any substantial redirection in the political process.

Minority Groups

The committee found that there is a compelling psychological need to involve the young people of minority groups in the political process at an early age Doing so through a reduction in the age of majority would be especially meaningful to young minority citizens, generally better educated than their parents, who frequently divest themselves of parental control at a comparatively early age.

VI. CONCLUSIONS

The committee felt strongly that discriminatory inconsistencies inherent in the present law should be reconciled, and that special classes of citizens should be neither perpetuated nor created by code requirements which set one age requirement for voting, a different age for legal consumption of alcoholic beverages, and still a different age for civil and/or criminal liability Revelation of the extent of existing inconsistencies prompted a committee determination that resolution of the optimum age of majority warrants further study utilizing appropriate expertise in the areas of judicial, criminal, licensing, and elections law.

The committee found it *desirable* that extension of the franchise be viewed as supplementary to the larger question of a reduction in the age of majority It was the opinion of the committee members that

challenging young people to understand and accept adult responsibilities with full comprehension of their meaning will promote the development of a more responsible young voter.

The committee concluded that discussion centered on the age of majority, rather than on the minimum voting age, also presented the most *practical* course of action. Today's adult voters, perhaps unwilling to delegate a special adult status for voting purposes only, should find this a more acceptable and perhaps less emotional course of action.

VII. ALTERNATIVES OF ACTION

The committee offered the following alternatives of action when it met in January of 1970 to conclude work prior to the publication of this report:

Omnibus Package

One of the alternatives considered by the committee was an omnibus legislative package which would include statutory amendments relating to the age of majority and a constitutional amendment reducing the voting age This approach would require that several bills be introduced, each bill dealing with a particular subject area. e g., privileges and obligations of a civil nature, criminal responsibility and jurisdiction; motor vehicles and drivers' licenses; educational matters; etc

Each bill would be referred to the appropriate legislative policy committee for review and consideration Although policy committees are normally utilized to permit expert review of specific legislative proposals, the isolated review inherent in this approach might well result in perpetuation of existing inconsistencies. There would be no assurance that each committee would agree on a common age, and there would be every possibility, if not likelihood, that varying age decisions would be reached

Gradual Reduction

The second alternative considered by the committee was a recommendation for phased reduction in the voting age and the age of majority This plan would require the introduction of a constitutional amendment and a companion bill which would propose that the voting/majority age be reduced to 20 in 1970, to 19 in 1972, and to 18 in 1974.

Creation of a Select Committee

The third course of action considered by the committee was the creation of a select committee for further study of the question of optimum voting/majority age. It was felt that membership on such a committee should consist of legislators with expertise in business, insurance, law, education, election law, etc The committee would be charged with the responsibility for formulating a recommendation as to the optimum age of majority. Utilizing this approach to circumvent standing policy committees would eliminate the possibility of inconsistent or conflicting recommendations which isolated consideration of various proposals might produce.

VIII. COMMITTEE RECOMMENDATION

The committee recommends that any effort to effect a reduction in the minimum voting age be combined with a similar effort to achieve a reduction in the age of statutory responsibility

In this regard, the committee recommends that the Legislature create a select committee directed to (1) engage in further study of statutory age requirements and (2) formulate a recommendation with regard to the optimum age of statutory responsibility.

APPENDICES

Attachment 1

By Assemblyman Priolo

House Resolution No. 14

Relative to the age of responsibility and the age of voting

WHEREAS, The age of voting in California is 21 years, and

WHEREAS, A great deal of controversy has arisen as to the merits of using this age as the minimum age for voting; and

WHEREAS, Any serious consideration of a change in the voting age must also consider a change in the age of responsibility; and

WHEREAS, The minimum age of voting is but one significant facet of the age of responsibility which includes such other areas as responsibility for debts and illegal actions; and

WHEREAS, The California State Assembly can make a substantial contribution to the continuing dialogue as to the adequacies of retaining the age of 21 as the minimum voting age; and

WHEREAS, Before a change in the voting age can be effectuated, a determination must be made as to whether or not the people of California want a change in the age of responsibility; now, therefore, be it

Resolved by the Assembly of the State of California, That the Assembly Committee on Rules assign to an appropriate committee for study, the subject of the age of responsibility and the age of voting, and that such committee is requested to report its findings and recommendations to the Assembly not later than the fifth legislative day of the 1970 Regular Session of the Legislature; and be it further

Resolved, That such committee is requested to conduct an in-depth hearing, and to provide a comprehensive analysis of the ramifications and merits of changing the age of responsibility and the age of voting; and be it further

Resolved, That such study be designed to examine and represent the consensus of California society in changing the age of responsibility as a condition for lowering the voting age.

Resolution read, and referred by the Acting Speaker to the Committee on Rules.

Attachment 2

THE GALLUP REPORT
Sunday, April 2, 1967

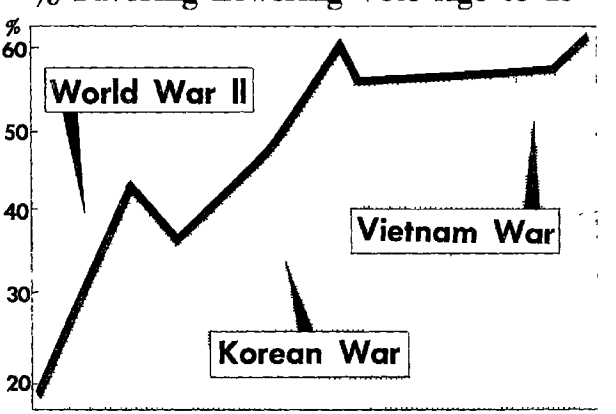
Support for Lowering Voting Age to 18 at All-Time High

By George Gallup

Princeton, N J., April 1—Public support for lowering the voting age requirement to 18 has reached an all-time high

Nearly two adults in every three (64 percent) think persons 18, 19 and 20 years old should be permitted to vote; only 17 percent held this view in 1939 when the first national Gallup survey on this issue was conducted.

During periods of war the proportion of persons in favor of lowering the voting age has increased, undoubtedly under the assumption that if a person is "old enough to fight, he's old enough to vote."



In 1939, 17 percent were in favor of lowering the voting age to 18. Today an all-time high of 64 percent are in favor. Periods of war tend to increase the number of people who would support such a change.

Four states now permit young persons under the age of 21 to vote. Georgia lowered the age bar to 18 in 1943 during World War II.

Kentucky was second, approving its law in 1955 in the aftermath of the Korean War Alaska was admitted to the Union with a 19-year-old voting age requirement, and Hawaii came in with a 20-year-old requirement.

The nation's adults are clearly in favor of lowering the voting age, but, strangely enough, no eagerness has been manifested by young people themselves A Gallup survey conducted six years ago found a large majority of high school and college students opposed to lowering the voting age, at a time when a majority of adults favored the plan

A survey conducted by the *Purdue Opinion Panel* in the fall of 1964 among high school students found only 32 percent in favor of lowering the voting age to 18.

In the present survey this question was asked of a cross-section of adults, 21 and older:

> "Do you think that persons 18, 19, and 20 years old should be permitted to vote, or not?"

Here are the highlights of the trend since 1939

Should 18–20-Year-Olds Vote?

(% in Favor)

June 1939	17%	July 1953	63%
January 1943	39	March 1954	58
April 1943	42	August 1965	57
February 1947	35	Today	64
September 1951	47		

One of the interesting sidelights on today's report is that the group presently denied the vote has a higher average level of schooling than any other age group in the population The overwhelming majority of persons in the 18–20 age group have been graduated from high school, and a sizable proportion are now enrolled in college

Political Implications

The Democratic Party is currently pushing hard for lowering the voting age—and for good reason. If 18-, 19- and 20-year-olds are enfranchised, it would change the present political balance and give the Democrats an even greater advantage than they enjoy today in terms of party allegiance.

Democrats among high school students outnumber Republicans by nearly two to one

The Democratic Party also has a clear edge over the GOP among college students, 35 to 26 percent Republicans, however, can take encouragement from the fact that nearly four in ten are presently uncommitted.

Although the enfranchisement of persons under 21 would greatly swell the ranks of the Democrats, this advantage would in part be offset by the fact that voting participation is lower among the younger age levels of the voting population The highest levels of participation are found among persons 40 years of age and older

Attachment 3

FIELD RESEARCH CORPORATION
Thursday, March 6, 1969

California Voters Ready to Lower Legal Voting Age

By Mervin D Field

California voters seem to be joining the national trend which is in favor of lowering the legal voting age In its most recent survey the California Poll found for the first time a majority of the public in this state ready to grant voting rights to people below the age of 21

Slightly more than half (53 percent) of the voters in this state appear ready to give 20-year-olds the right to vote While a majority is not now ready to extend the vote to 19- or 18-year-olds, the trend seems to be in that direction The survey results are compared to a similar survey taken two years ago at this time

> "As you know, the present legal voting age in California is 21, but there has been some talk about lowering the voting age Do you think the legal voting age should be lowered to 18?" (if no or don't know): "Do you think it should be lowered to 19?" (if no or don't know): "Do you think it should be lowered to 20?"

	February 1969	February 1967
Keep voting age at 21	44%	53%
Allow voting for:		
20-year-olds	53%	43%
19-year-olds	47	38
18-year-olds	42	34
No opinion	3	4

Altering the legal requirements to vote can be done by each state—no national legislation is required At the present time, four states allow people under 21 to vote: in Georgia and Kentucky the legal voting age is 18; in Alaska it is 19, and in Hawaii it is 20

Over the years Democrats have advocated lowering the voting age more so than Republicans There is evidence people in the 18–21 age group prefer the Democratic Party by a wider margin than the electorate as a whole However, this possible gain for Democrats is diluted somewhat because voting participation by people in the younger age groups is not as great as it is with people over 40 years of age

During the past 15 years the Gallup poll has found consistent national support for lowering the voting age to 18 In an April 1967 survey it found 64 percent of the U S public endorsing the principle of allowing 18-, 19- and 20-year-olds to vote In 1939 just 17 percent of the public was in favor of the idea That proportion moved to 35

percent in 1947. It was in 1953 when a majority of the public was first observed to support the principle of a lowered voting age.

Recently there has been some speculation that as a result of the widespread state college and university turmoil that the California public might be reacting negatively to the idea of allowing 18- to 21-year-olds to vote. However, today's report does not indicate any interruption in the trend in public favor of extending voting privileges to people under 21.

Attachment 4

POLICY QUESTIONS CONCERNING

MINIMUM AGE OF STATUTORY RESPONSIBILITY

(AGE OF MAJORITY)

and

BACKGROUND MATERIALS CONCERNING THE VOTING AGE

Prepared by

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Assembly Office of Research

ASSEMBLY COMMITTEE ON

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POLICY QUESTIONS PERTAINING TO THE AGE OF MAJORITY OR RESPONSIBILITY

California statutory law makes important distinctions between persons under the age of 21 and those over 21 For purposes of many of the codes a person does not attain the age of majority or "responsibility" until age 21 These distinctions suggest some critical policy questions related to lowering the voting age and to the age of statutory responsibility

Privileges and Obligations of a Civil Nature

1. Alcohol

The minimum age for the purchase or sale of alcoholic beverages is fixed in the California Constitution (Article XX, Section 22) and by statute (Business and Professions Code, Section 25658) at 21 (A survey of the minimum legal age for purchase of different alcoholic beverages in other states is attached as Table 1)

Question: Should a person between 18 and 21 years of age be permitted to sell, possess, purchase, and consume alcoholic beverages?

2. Eligibility to Practice Professions

There are a number of statutes governing the eligibility of minors for certain types of employment (Business and Professions Code).

Question: Should a person between 18 and 21 years of age be permitted to pursue the following professions in which a person must be licensed by the state in order to practice?

Contractor	Dentistry
Private detective	Podiatrist
Funeral director	Physical therapist
Embalmer	Psychologist
Certified shorthand reporter	Optometrist
	Pharmacist
Structural pest control operator	Certified public accountant
	Landscape architect
Collection agent	Attorney

3. Marriage

Previously unmarried males below the age of 21 must have the consent of a parent or guardian to marry Females can marry without the consent at 18 A survey of the minimum legal age for marriage in other states and the District of Columbia is attached as Table 2 (Civil Code. Section 25).

Question: Should male persons between 18 and 21 years of age be permitted to contract in lawful marriage without first obtaining parental permission?

4. Delegation of Power

A minor cannot give a delegation of power nor, under the age of 18, make a contract relating to real property, or any interest therein, or relating to any personal property not in his immediate possession or control (Civil Code, Section 33)

Question: Should persons between 18 and 21 years of age be permitted to give a delegation of power?

5. Contractual Liability

In certain instances an unmarried minor under 21 can disaffirm contractual liabilities (i e contracts for the purchase or sale of real property) (Civil Code, Section 35).

Question: Should a person between 18 and 21 years of age have the authority to disaffirm certain types of contractual agreements?

6. Litigation

Persons under the age of 21 are required to conduct their legal proceedings through a parent or guardian (Code of Civil Procedure, Section 372)

Question: Should a person between 18 and 21 years of age be permitted to conduct his legal proceedings and to appear in court action on his own rather than through a guardian?

7. Change of Name

Under existing law if a male is under 21 years of age and a female is under 18 years of age, a parent or guardian must petition the court to have the name of the minor changed (Code of Civil Procedure, Section 1276).

Question: Should a male between 18 and 21 years of age be allowed to petition the court to change his name?

8. Service as a Juror

Under existing law a person must be 21 years of age to be considered competent to act as a juror (Code of Civil Procedure, Section 198)

Question: Should a person between 18 and 21 years of age be permitted to act as a member of a jury and to pass judgment on others?

9. Control Over Assets and Earnings

Several special provisions govern the control and supervision of unmarried minors over their assets and earnings (Code of Civil Procedure).

Question: Should a person between 18 and 21 years of age be permitted to handle his own estate? Should the proceeds from the sales of an interest held in the name of a minor person of the age 18

or older be paid to that person rather than to his guardian to be put in trust until he reaches majority? Should persons between 18 and 21 years of age be permitted to have exclusive control over their assets and earnings?

10. Minor as a Shareholder

Under existing law the shares standing in the name of a minor person may be voted and all rights incident to the shares exercised by his guardian, except that in the guardian's absence, the minor may exercise such rights (Corporations Code, Section 2221).

Question: Should a person between 18 and 21 years of age in all instances be allowed to vote and exercise the rights incident to shares of a corporation and/or other interests standing in his name?

11. Elective or Appointive Public Office

Persons under the age of 21 years of age are ineligible for civil and county offices (Government Code, Sections 203 and 24001).

Question: Should a person between 18 and 21 years of age be prohibited from holding an elective or appointive civil, county or district office?

12. Residence

Special provisions govern the right of persons under 21 to determine or change their residence (Government Code, Section 244 subdivision d).

Question: Should an unmarried person between 18 and 21 years of age be permitted to establish his legal residence separate and apart from the residence of his parents or guardian?

13. Minor Acting as Executor or Administrator of an Estate

Existing law provides that when a person under 21 years of age is appointed executor or executrix of an estate, that another executor who is of the age of majority must be appointed to administer the estate (Probate Code, Section 405).

Question: Should a person between 18 and 21 years of age be permitted to act as executor or executrix of an estate and to administer that estate?

14. Disputed Claim of a Minor

Provisions of existing law give the parent or guardian of a minor person the authority to compromise or execute a covenant not to sue when a minor has a disputed claim for damages, money, or other property against a third person (Probate Code, Section 1431).

Question: Should a person between 18 and 21 years of age be permitted to take court action to sue another person without interference from his parents or guardian?

Criminal Responsibility and Jurisdiction

1. Criminal Behavior

A person between 18 and 21 years of age who is convicted of a crime punishable in the court's discretion in a state prison, and the person is sentenced to the Youth Authority, the crime is considered a misdemeanor (Penal Code, Section 17)

Question: If the court is of the opinion that the crime committed by a person between 18 and 21 years of age warrants imprisonment in a state prison, should the person be sentenced in that manner?

If the person does in fact merely get sentenced to the custody of the Youth Authority, should the crime be considered a misdemeanor?

2. Firearms

Under current statutory provisions a minor may not possess a concealable firearm without written permission of his parent or guardian or unless he is in their company (Penal Code, Section 12021 5).

Question: Should a person between 18 and 21 years of age be permitted to possess a concealable weapon without parental permission?

3. Places of Questionable Repute

Under existing law every telephone or special delivery company or association, and every other corporation or person engaged in the delivery of packages, letters, notes, messages, or other matters, and every agent of such a person, corporation, or association who sends a minor into or allows such a minor to enter into any place of questionable repute is guilty of a misdemeanor (Penal Code Section 273e)

Question: Should employers be considered guilty of unlawful behavior if a minor in their employ between the ages of 18 and 21 years entered into a place of questionable repute while conducting business?

4. Parental Responsibility

Under existing law a father of either a legitimate or illegitimate minor child who willfully omits without lawful excuse to furnish necessary food, clothing, shelter, or medical attendance or other remedial care for his child is guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding two years or by a fine not exceeding $1,000, or both In the event the father of the minor child, legitimate or illegitimate, is dead or for any other reason whatsoever fails to furnish the necessities of living, the mother of said minor child shall become criminally liable for the support of the minor child (Penal Code, Section 270)

Question: Should the parent of a minor child between 18 and 21 years of age be criminally liable for the support of that minor child?

5. Juvenile, Superior or Municipal Court Jurisdiction

The law provides the juvenile court system for the protection of persons between 18 and 21 years of age who have committed a crime. How-

ever, even though the service of the juvenile court is available for this group, the actual utilization of the system is at the discretion of the judge The following is a list of citations to the Welfare and Institutions Code which relate to the jurisdiction of the juvenile court over minors These citations pose a very critical question to which the committee must give a great deal of thought in the course of its deliberations on the optimum age of statutory responsibility

Question. **Should the availability of the juvenile court system be maintained for the protection and rehabilitation of the 18–21-year-old age group or should these persons unequivocally be subjected to the jurisdiction of the superior or municipal court as are persons over 21 years of age?**

Citations:

a A person under 21 years of age who (1) is in the need of proper and effective parental care, or (2) has no parent or guardian in existence, or (3) is destitute, or (4) is physicaly or mentally incapacitated so as to be a danger to society, or (5) if no parent or guardian is willing or capable of exercising care or control of said minor, the minor shall become a ward of the juvenile court (Welfare and Institutions Code, Section 600)

b. A person under the age of 21 who persistently refuses to obey the reasonable and proper orders or directions of his parents, guardian, custodian or school authorities or who is in danger of leading a lewd or immoral life is within the jurisdiction of the juvenile court and may be adjudged a child of the court and be subject to the controls and prohibitions which the court may see fit to exercise (Welfare and Institutions Code, Section 601)

c. Any person under 21 years of age who violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime, or fails to comply with an order of the juvenile court is within such court's jurisdiction, and may be adjudged a ward of the court Upon being pronounced a ward of the court a person under 21 years of age may be subject to a great many restrictions and prohibitions which curtail activity (Welfare and Institutions Code, Section 602)

d A minor may be taken into temporary custody by a peace officer without a warrant if such person is a ward or dependent child of the juvenile court or concerning whom certain orders have been made when such officer has reasonable cause to believe that the minor has violated an order of the juvenile court, or if such person is found in a public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care (Welfare and Institutions Code, Section 625)

e. If the juvenile court deems the situation sufficiently urgent for the minor's protection or if the minor has violated an order of the juvenile court, the minor may be detained for 15 judicial days (Welfare and Institutions Code, Section 636)

f If a minor is deemed to be a dependent child of the court the minor is subject to any order the court may make regarding

care, supervision, custody, conduct maintenance, support, and medical treatment (Welfare and Institutions Code, Section 727)

g The juvenile court is empowered to issue an order sending a minor to an out-of-state residence, or if the minor is a resident of this state the court may order the minor sent to whomever is deemed to be legal custodian of the minor Such an order necessarily curtails or prohibits a minor's activity as opposed to the freedom of an adult (Welfare and Institutions Code, Section 738)

h If the juvenile court is in doubt about a minor's mental health the court may, pursuant to prescribed procedures, commit the minor temporarily to a diagnostic and treatment center of the youth authority, psychiatric ward of the county hospital, or hospital whose services have been approved and/or contracted for by the department of health of the county (Welfare and Institutions Code, Sections 703, 704, and 705)

i A minor, adjudged a ward or dependent child of the juvenile court who applies to the court to marry, may be given permission by the court, if such minor has no parent or guardian or parent capable of consenting to such marriage (Welfare and Institutions Code, Section 740 1)

j A person adjudged a ward or dependent child of the juvenile court or placed on probation thereby may be permitted to reside in a county other than a county of his legal residence, the court retains jurisdiction, and the person may be placed under the supervision of the probation officer of the county of actual residence, and is required to comply with his instructions (Welfare and Institutions Code, Section 755)

k A minor or a person under 21 years of age is subject to the Interstate Compact on Juveniles, which concerns the procedure for holding and returning juveniles classified as runaways, absconders, and escapees (Welfare and Institutions Code, Chapter 4 of Division 2)

l After conviction of a public offense, persons under 21 years of age may be subject to the control of the California Youth Authority (Welfare and Institutions Code, Chapter 1 of Division 2.5).

Motor Vehicles and Drivers' Licenses

1. *Civil Liability*

For purposes of civil liability connected with the operation of a motor vehicle, all persons under 21 years of age, except persons 18 years of age or over who have contracted legal marriage, are minors Parents or the persons or guardian having legal custody of a minor shall be responsible for any civil liability arising from any negligence or willful misconduct of the minor, whether licensed or not, while that minor is operator of a motor vehicle (Vehicle Code, Sections 17700, 17707, and 17708)

Question: Should a person between 18 and 21 years of age be civilly liable for his actions while operating a motor vehicle, whether he is a licensed or nonlicensed driver?

2. *Minor's Application for a Driver's License*

No application for a driver's license may be granted by the Department of Motor Vehicles to any minor unless it is signed and verified by the mother and father of the minor, by the parent having custody of the child if the parents are legally separated, or if one parent is dead, or by the minor's guardian if neither parent has custody or is living (Vehicle Code, Section 17701).

Question: Should the signature of the parent or guardian of a person between 18 and 21 years of age be required on that person's application for a driver's license?

3. *Minor's Ability to Respond in Damages*

If the person or persons required to sign the application of a minor are not residents of this state; or if such a person or persons give their written consent; or if a minor is under 18 years of age and legally married; such a minor, in lieu of having his driver's license signed by a parent or guardian, may file proof of ability to respond in damages (Proof of ability to respond in damages means proof of ability in damages resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or death of, any person—Vehicle Code Section 16430) (Vehicle Code, Sections 17702, 17703, and 17705).

Question: Should all persons between 18 and 21 years of age be required to file proof of ability to respond in damages and be civilly liable for their own actions while operating a motor vehicle, rather than be required to have their parents or guardian sign the application and be considered civilly liable?

4. *Cancellation of a Minor's Driver's License*

If the parent or parents or guardian signing the application of a minor submit a request to be relieved of their civil liability, or if the person or persons signing the application have died, the Department of Motor Vehicles shall cancel the driver's license of the minor (Vehicle Code, Sections 17711 and 17712)

Question: Should a person between 18 and 21 years of age have his driver's license subject to cancellation for these reasons?

5. *Highway Patrol Officer*

A person must be at least 21 years of age to qualify to take an examination for the position of Highway Patrol Officer (Vehicle Code, Section 2256)

Question: Should a person between 18 and 21 years of age, who is otherwise qualified, be precluded from taking an examination for the position of highway patrolman?

6. *Driving Schools*

A person must be at least 21 years of age to operate a driving school or to act in the capacity of driving instructor for a driving school (Vehicle Code, Sections 11102 and 11104).

Question: Should a person between 18 and 21 years of age be permitted to operate a driving school, and if qualified, to serve in the capacity of a driving instructor for a driving school?

7. Revocation of the Driver's License of a Minor

The Department of Motor Vehicles is required to revoke the driver's license of any minor who has been found by a judge of the juvenile court to have committed two or more of the following offenses within a 12-month period (Vehicle Code Section 13355):

1. Failure to stop and give proper notification when involved in an accident resulting in damage to property, including vehicles (Vehicle Code, Section 20002).
2. Reckless driving (Vehicle Code, Section 23103).
3. Reckless driving resulting in bodily injury (Vehicle Code, Section 23104).

In contrast, the Department of Motor Vehicles is required to revoke the license of an adult offender of the above-mentioned offenses if he has been convicted of three or more such offenses within a 12-month period (Vehicle Code, Section 13350).

Question: Should persons between 18 and 21 years of age be permitted the same benefit of doubt under the law with regard to moving violations as persons over 21 years of age?

8. Penalty

A minor must not be given any lighter penalty than an adult in connection with the suspension or revocation of his driver's license (Vehicle Code, Section 13367).

Question: If persons between 18 and 21 years of age must bear the same penalty as persons over 21 years of age in connection with suspension of their driver's license, should they not also be subject to that penalty for the same reasons?

9. Alcoholic Beverage in a Motor Vehicle

A person under 21 years of age may not possess, transport, or have under his control in any motor vehicle any alcoholic beverage, unless such a person is accompanied by a parent, legal guardian, or is employed by a licensee licensed under the Alcoholic Beverage Control Act and is transporting or possessing such alcoholic beverage pursuant to his employment If a minor is found guilty of such an offense he shall have his driver's license suspended for not less than 15 days, nor more than 30 days. If the vehicle the minor is driving when stopped for this offense is registered in his name, it may be impounded for not less than 1 day or more than 31 days. Similar restrictions regarding the transport of alcoholic beverages apply to adults only when the seal of the container being transported has been broken (Vehicle Code, Sections 23122, 23123, 23123 5)

Question: If the age of majority for legal consumption of alcohol is reduced to 18 years of age, should persons between 18 and 21 years of age be permitted to transport unopened containers of alcoholic beverages in a motor vehicle as are those over 21?

Education

1. School District Governing Board

A person must be 21 years of age or over to vote in any school appointed as a member of the governing board of a school district (Education Code, Section 1112)

Question: Should persons between 18 and 21 years of age be permitted to run for, or be appointed to, a school district governing board?

2. School District Elections

A person must be 21 years of age to be eligible to be elected or district election (Education Code, Section 1365)

Question: Should persons between 18 and 21 years of age be permitted to vote in school district elections?

3. Residence for Purposes of Entering the University of California

An unmarried minor, proposing to enter the University of California, and who has a parent living, cannot change his residence by either his own act or that of his guardian (Education Code, Section 23054)

An unmarried minor, whose parent is in the active military service and is stationed in this state on the residence determination date, or an unmarried minor who is a bona fide resident of the state and is a dependent of a parent or guardian who is in active military service and is stationed outside the continental limits of the United States, shall be considered a resident of this state for purposes of registering at the University of California (Education Code, Sections 23057 and 23755).

Question: Should persons between 18 and 21 years of age be permitted to establish residence by an act of their own in this state for purposes of entering the University of California?

Financial Rights of Minors

Under existing law minors (persons under 21 years of age) are given the following rights regarding their financial affairs which are equivalent to the rights of adults (persons over 21 years of age).

1. A bank account by, or in the name of, a minor is the exclusive right of the minor and payment made to the order of such a minor is a valid release and discharge of the bank (Financial Code, Section 850).
2. A minor beneficiary may be the recipient of a trust deposit in a bank, deposited by one person for the benefit of the minor, if the bank is not given notice of other terms of the trust, and the trustee has died (Financial Code, Section 853).
3. A minor may be issued shares or investment certificates by a savings and loan association and the minor is entitled to withdraw, transfer, or pledge the shares or certificates and receive interest (Financial Code, Section 7600)

4 A minor may hold shares in a borrower's mutual savings and loan association in the name of a parent, guardian, or next friend as trustee (Financial Code, Section 10201).

5 A minor may purchase shares in a federal savings and loan association, and such shares shall be his exclusive right (Financial Code, Section 11200)

6. A minor may hold shares in a federal savings and loan association in joint tenancy, and such shares are the exclusive right of the joint tenants (Financial Code, Section 11204).

7 A minor may be issued investment or thrift certificates and such certificates are for the minor's benefit (Financial Code, Section 18402 1)

Miscellaneous

1. Workmen's Compensation

A person between 18 and 21 years of age may receive compensation payments directly until his parent or guardian gives his employer or insurance carrier written notice claiming the compensation (Labor Code, Section 3605)

Question: Should the parent or guardian of a person between 18 and 21 years of age be permitted to collect that person's workmen's compensation payments?

Should a person between 18 and 21 years of age be permitted to collect his own workmen's compensation directly?

2. Recording Brand Names

No brand shall be recorded for any person under 21 years of age unless countersigned by the minor's parent or guardian (Agricultural Code, Section 20694)

Question: Should a person between 18 and 21 years of age be permitted to record a brand in his name without having it countersigned by his parent or guardian?

3. Fish and Game Wardens

The minimum age limit for appointment to the position of fish and game warden of the California Department of Fish and Game shall be 21 years. (Fish & Game Code, Section 854)

Question: Should persons between 18 and 21 years of age, who are otherwise qualified, be eligible for appointment to the position of fish and game warden?

4. Managing Officer of a Prorater

No license can be granted to a prorater or continued in effect as such unless the principal managing officer thereof is at least 21 years of age (Financial Code, Section 12331)

Question: Should persons between 18 and 21 years of age be permitted to be the managing officer of a licensed prorater?

5. Yacht and Ship Broker's License

A person may not obtain a yacht and ship broker's license unless he is at least 21 years of age (Harbors and Navigation Code, Section 77.2).

Question: Should persons between 18 and 21 years of age be permitted to obtain yacht and ship broker's licenses if they are otherwise qualified?

6. Pilot of a Vessel

A person may not be appointed or licensed as a pilot of a vessel unless he is over 21 years of age (Harbors and Navigation Code, Section 1100).

Question: Should persons between 18 and 21 years of age be permitted to be licensed and/or appointed as the pilot of a vessel?

7. Inducing Minors to Violate Narcotic Provisions

A person over 21 years of age or a person under 21 years of age who in any voluntary manner solicits, induces, encourages or intimidates any minor with an intent to violate any provision of the Narcotics Law, or who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle any narcotic, other than marijuana, or who unlawfully sells, furnishes, administers, or gives any narcotic, other than marijuana, to a minor is guilty of a felony Those persons over 21 years of age violating the law in this manner are subject to punishment of not less than 10 years in a state prison · persons under 21 years of age violating the law in this manner are subject to punishment of at least 5 years in a state prison. (Health and Safety Code, Sections 11502 and 11502.1.)

Question: Should greater penalty be given persons over 21 years of age for violation of the Narcotics Law than is given persons under 21 years of age for violation of the same law?

8. Sale of Explosives

No explosives can be sold, given, or delivered to any person under 21 years of age, whether or not such person is acting for himself or for another person, nor is any such person eligible to obtain any permit to receive explosives (Health and Safety Code, Section 12000).

Question: Should a person between 18 and 21 years of age be permitted to sell, purchase, or receive explosives?

9. Insurance Broker or Agent License

A person must be 21 years of age or older to be eligible to apply for a license to act as an insurance broker or agent (Insurance Code, Section 1644).

Question: Should persons between 18 and 21 years of age be permitted to apply for an insurance broker's or agent's license if they are otherwise qualified?

10. Life Insurance Analyst License

A license to act as life insurance analyst cannot be issued to any person who is under 21 years of age (Insurance Code, Section 1833).

Question: Should persons between 18 and 21 years of age be permitted to apply for an insurance analyst's license if they are otherwise qualified?

11. Life or Disability Insurance Liability Assessment

All life or disability insurance or annuity contracts made by a minor not of the full age of 21 years which may result in any personal liability for assessment shall have the written assumption of such liability by a parent or guardian in consideration of the issuance of the contract (Insurance Code, Section 10112).

Question: Should persons between 18 and 21 years of age be permitted to contract life or disability insurance or an annuity contract which may result in personal liability assessment without being required to have their parent or guardian declare assumption of such liability?

12. Funeral Insurance Benefits

No funeral insurance contract issued or delivered in this state upon the life of any person in this state shall contain any provision scaling down or reducing the benefits payable below the face amount of the

TABLE 1

Minimum Legal Age for Purchase of Alcoholic Beverages

State	Years	State	Years
Alabama	21	Montana	21
Alaska	21	Nebraska	21
Arizona	21	Nevada	21
Arkansas	21	New Hampshire	21
California	21	New Jersey	21
Colorado [e]	21	New Mexico	21
Connecticut	21	New York	18
Delaware	21	North Carolina [b]	21
District of Columbia [b]	21	North Dakota	21
Florida	21	Ohio [c]	21
Georgia	21	Oklahoma [d]	21
Hawaii	20	Oregon	21
Idaho [a]	21	Pennsylvania	21
Illinois	21	Rhode Island	21
Indiana	21	South Carolina [a]	21
Iowa	21	South Dakota	21
Kansas [a]	21	Tennessee	21
Kentucky	21	Texas	21
Louisiana	18	Utah	21
Maine	21	Vermont	21
Maryland	21	Virginia [e]	21
Massachusetts	21	Washington	21
Michigan	21	West Virginia [c]	21
Minnesota	21	Wisconsin [c]	21
Mississippi [b]	none	Wyoming	21
Missouri	21		

[a] Beer—20
[b] Light wine, beer—18
[c] 3.2 beer—18
[d] 3.2 beer—male, 21, female, 18, off-sale, 21
[e] Beer and wine—18
[f] Beer—18
[g] 3.2 beer—19
[h] No sale of light wine or beer under the age of 18

TABLE 2

Minimum Age for Marriage

State	With consent		Without consent	
	Men	Women	Men	Women
Alabama †	17	14	21	18
Alaska	18	16	19	18
Arizona	18	16	21	18
Arkansas	18	16	21	18
California	18	16	21	18
Colorado	16	16	21	18
Connecticut	16	16	21	21
Delaware	18	16	21	18
District of Columbia	18	16	21	18
Florida	18	16	21	21
Georgia	17	14	†	18
Hawaii	18	16	20	20
Idaho	15	15	18	18
Illinois *	18	16	21	18
Indiana	18	16	21	18
Iowa	18	16	21	18
Kansas	18	16	21	18
Kentucky	18	16	21	21
Louisiana *	18	16	21	21
Maine	16	16	21	18
Maryland	18	16	21	18
Massachusetts	18	16	21	18
Michigan	18	16	18	18
Minnesota	18	16	21	18
Mississippi †	17	15	21	21
Missouri	15	15	21	18
Montana	18	16	21	18
Nebraska	18	16	21	21
Nevada	18	16	21	18
New Hampshire *	14‡	13‡	20	18
New Jersey *	18	16	21	18
New Mexico	18	16	21	18
New York	16	14	21	18
North Carolina *	16	16	18	18
North Dakota *	18	15	21	18
Ohio *	18	16	21	21
Oklahoma	18	15	21	18
Oregon	18	15	21	18
Pennsylvania	16	16	21	21
Rhode Island †	18	16	21	21
South Carolina *	16	14	18	18
South Dakota	18	16	21	18
Tennessee †	16	16	21	21
Texas	16	14	21	18
Utah	16	14	21	18
Vermont *	18	16	21	18
Virginia	18	16	21	21
Washington	15	15	21	18
West Virginia	18	16	21	21
Wisconsin	18	16	21	18
Wyoming	18	16	21	21

* Special laws applicable to nonresidents
† Special laws applicable to those under 21 years, Alabama—bond required if male is under 21, female under 18
‡ Parental consent plus court's consent required

policy. This shall not be applicable, however, to a policy issued on the life of a juvenile (Insurance Code, Section 10248).

Question: Should funeral insurance contracts possessed by persons between 18 and 21 years of age be guaranteed as to their face value as are those possessed by persons over 21 years of age?

13. California Water Storage District Elections

A male or female who holds title to land must be over 21 years of age before such a person may vote in a California water storage district election (Water Code, Section 41002).

Question: Should a person between 18 and 21 years of age who holds title to land be permitted to vote in a California water storage election?

A Report on Lowering the Voting Age

Arguments for and against lowering the minimum voting age are usually anything but value free For instance to evaluate the proposition that young men deserve to vote because they are of draft age is certainly beyond the scope of a staff report The facts to support other arguments, however, may be drawn from a variety of sources. We have attempted to organize some of those facts

I. OTHER STATES AND COUNTRIES

Under the U S Constitution, it is the prerogative of the states, with certain limitations, to establish qualifications for voting, including the minimum age With four exceptions, a minimum age of 21 years has been standard practice in this country since colonial times Most of the nations of western Europe also have a minimum voting age requirement of 21 years Of the 20 countries which reduced the minimum voting age to 18, eight are in Latin America and eight are in the Communist countries The others are Israel, Mexico, West Germany, and Great Britain. Of these 20 countries, Great Britain in its "Family Reform Act 1969" lowered the age of majority as well as the voting age from 21 to 18 years of age The Family Reform Act of 1969 went into effect January 1, 1970 (See New York *Times*, July 25, 1968, and January 2, 1970, on page 41 infra).

Particularly since World War I there have been a number of attempts to secure a reduction of the minimum voting age, in some instances through a federal constitutional amendment, and in others through amendments to state election codes by action of the state legislatures In four states, such a reduction has been accomplished

Georgia was the first state to alter the age requirement in 1943 The existing requirements for holding office and other legislation affecting literacy for voting or protection for this group were not changed The action is said to have increased the primary and general election votes In the years immediately following the extension, 20 percent of the increase in votes is said to have come from this age group No information is available as to whether or not this increase influenced the outcome of elections.

Kentucky was the next state to extend the voting age to 18 years by state constitutional amendment in 1955 134,000 potential voters in the age group (1960) were made eligible. Since no central registration figures are kept with age, it was not possible to estimate how many actually registered In 1959 a survey showed that three of out four college students were registered, while only one out of three noncollegians was registered

Both Alaska and Hawaii established lower voting ages when they became states in 1959 Alaska's age is 19 and Hawaii's minimum age is 20, which conforms with the state's age of majority, which has been in effect for males since 1859 and for females since 1919

In November 1969, propositions for lowering the voting age were placed before the people in two states, Ohio and New Jersey In both states, the people refused passage of the propositions (Ohio—1,218,175 *yes* to 1,267,422 *no*; New Jersey—760,896 *yes* to 1,820,940 *no*)

The legislatures of 12 states have adopted legislation during the past year which proposes to provide for a minimum voting age lower than 21 years of age In all but one of these states (Nevada), constitutional amendment is necessary to change the legal voting age In these states the legislative adopted measures must be submitted to the voters for their approval or disapproval

VOTING AGE PROPOSALS—1970

Alaska	Legislation passed lowering the voting age from 19 to 18 To be placed before the people at primary election in August of 1970
Connecticut	Legislation passed lowering the voting age from 21 to 18 To be placed before the people at November 1970 election
Delaware	Legislation passed lowering the voting age from 21 to 19. The measure must pass the legislature again next session and then will be placed before the voters in 1970
Hawaii	Legislation passed lowering the voting age from 20 to 18 To be placed before the voters at November 1970 election
Maine *	Legislation passed lowering the voting age from 21 to 20 To be placed before the voters at November 1970 election
Massachusetts	Legislation passed lowering the voting age from 21 to 19 To be placed before the voters at November 1970 election
Minnesota	Legislation passed lowering the voting age from 21 to 19 To be placed before the voters at November 1970 election
Montana	Legislation passed lowering the voting age from 21 to 19 To be placed before the voters at November 1970 election
Nevada	Legislation passed lowering the voting age from 21 to 18 Must pass again next session
Oregon	Legislation passed lowering the voting age from 21 to 19 To be placed before the people at primary election in May 1970
Wyoming	Legislation passed lowering the voting age from 21 to 19 To be placed before the people in November 1970 election

* Of the 12 state legislatures placing before the people of their respective states constitutional amendments proposing reduction of the voting age, only Maine has simultaneously as well as independently, lowered the age of statutory responsibility (Chapter 433 Public Law of Maine, signed by the Governor, June 26, 1969, effective October 1, 1969) The amendments to the statutes lower the age of responsibility to 20 years

II. PARTICIPATION IN SOCIETY

The degree and manner in which persons 19 and 20 years old participate in the affairs of adult society is very likely to be considered in a discussion on lowering the voting age. Unfortunately, information on income and taxes paid is not available by individual years of age

and is therefore not presented here Information on employment, school enrollment and marriage by age for the United States is given in Table 1 Similar figures for California are not given because the state has more than its share of military personnel (many of whom would not be residents for voting purposes) and the figures could be misleading Except for those influenced by the state's military population, however, California figures seem to be close to those for the United States

Table 1 illustrates that there is no abrupt transition to adult behavior at 19 years of age, but there is none at 21 either The table also shows that arguments relating the right to vote to military service could apply in 1960 to only about 6 percent of the 19- and 20-year-old population (less, if only draftees are counted and not enlistees).

III. NUMBER OF POTENTIAL VOTERS

The State Department of Finance Population Studies Division, maintains an up-to-date survey of the number of California citizens in each age group They have provided a rough estimate of the number of potential voters in the three age groups 18, 19 and 20

Current estimate:

18–19 years of age	342,100
19–20 years of age	332,800
20–21 years of age	333,800
Total 18–21	1,008,700

If the minimum eligible age for voting were to be reduced to 19, 666,600 persons would become potential voters

If the minimum eligible voting age were reduced to 18, 1,008,700 persons would become potential voters.

Projected figures.

It is estimated that by 1970 persons in the age group 18–21 will number 1,033,500 and by 1972—1,105,100

The total voting population age 21 and over is projected for 1970 to be 12,583,300

IV. PUBLIC OPINION

A recent California poll by Marvin Field found that a majority of those questioned favor lowering the current minimum age for voting

The poll asked the following question "As you know, the present legal voting age in California is 21, but there has been some talk about lowering the voting age Do you think the legal voting age should be lowered to 18? If no, or don't know Do you think it should be lowered to 19? If no or don't know Do you think it should be lowered to 20?"

The results were

	February 1969	*February 1967*
Keeping voting age at 21	44%	53%
Allow voting for.		
20-year-olds	53	43
19-year-olds	47	38
18-year-olds	42	34
No opinion	3	4

A Gallup poll, published April 2, 1967, shows the portion of the American public favoring extending the vote to 18-, 19- and 20-year-olds at a high of 64 percent Results for the past years are:

June 1939	17%
January 1943	39
April 1943	42
February 1947	35
September 1951	47
July 1953	63
March 1954	58
August 1965	57
April 1967	64

Copies of newspaper articles on the two polls are attached.

V. CALIFORNIA CONSTITUTION REVISION COMMISSION

At their February 1969 meeting, the California Constitution Revision Commission voted to recommend to the Legislature that the minimum eligible age for voting be set at 19 in revised Article II. The commission also voted to recommend that the question of lowering the voting age to 19 be a separate ballot measure distinct from the proposed revision of Article II.

VI. LEGISLATIVE PROPOSALS TO LOWER THE VOTING AGE *

1947 General Session	ACA 34
1953 General Session	SCA 3, Miller, 18 years
	ACA 5, Collins, 18 years
1955 General Session	ACA 8, Grant, 18 years plus examination
	ACA 12, O'Connell, 18 years
	ACA 51, Meyers, 18 years
1957 General Session	ACA 6, Busterud, 18 years
	ACA 7, Burton, 18 years
1959 General Session	ACA 10, Busterud, 18 years
	ACA 12, Burton, 18 years
	ACA 22, Conrad, 18 years
1963 General Session	ACA 24, Burton, 18 years
1965 General Session	ACA 14, Dymally, 18 years
	ACA 15, Brown, 18 years
1967 General Session	SCA 3, Dymally, 18 years
	SCA 15, Moscone, 18 years
	ACA 8, B Greene, 19 years
	ACA 14, Mihas, 19 years
	ACA 36, McGee, 18 years
	ACA 50, Cory, 18 (those serving in armed services)
1968 Regular Session	SCA 8, Moscone, 18 years
	ACA 17, Shoemaker, 20 years
	ACA 24, Vasconcellos, 19 years
1969 Regular Session	SCA 2, Moscone, 19 years
	ACA 5, B Greene, 18 years †
	ACA 10, Deddeh, 19 years
	ACA 17, Briggs, 19 years
	ACA 18, McGee, 18 years
	ACA 37, Vasconcellos, 18 years

* None passed the Legislature.
† ACA 5, as amended April 25, 1969, applies only to males between the ages of 18 and 21 who have been inducted into the armed services

TABLE 1

Employment Status and School Enrollment by Age and Sex for United States

Male	*17*	*18*	*19*	*20*	*21*
Population	1,449,801	1,249,225	1,107,977	1,065,814	1,083,261
Working full time, %	9 3	25 2	36 8	45 4	52 9
Working part time, %	25 6	20 4	15 2	12 9	11 7
Unemployed, %	5 6	7 2	7 6	7 7	7 6
Not in labor force, %	56 5	39 3	27 2	20.4	16 6
Enrolled in school, %	76 3	54 6	37 3	27 9	23 6
In armed forces, %	3.0	8 9	13 1	13 6	11 2
Married, %	1 9	5.3	12 6	23 6	35 8
Female					
Population	1,415,107	1,243,837	1,162,821	1,119,089	1,114,569
Working full time, %	5 9	21 6	33 4	34.6	34 0
Working part time, %	16 3	13 4	10 9	9 5	8 4
Unemployed, %	3 7	4 9	5 1	4 8	3 2
Not in labor force, %	74 1	56 9	50 3	50 8	52 9
Enrolled in school, %	74 9	46 6	28 4	19.3	13 9
In armed forces, %	0 0	0 2	0 3	0 3	0 2
Married, %	11.9	23 8	39 3	52 6	63 5

Reference 1960 census

EVENING OUTLOOK

Tuesday, November 11, 1969 (Santa Monica)

Editorial Page

Voting Age and Responsibility

Public hearings by a legislative committee chaired by Santa Monica Assemblyman Paul Priolo on the subject of lowering California's voting age have done a great deal to put the question in its proper perspective.

The committee's recent hearing at UCLA was the sixth in a series of nine that Priolo has scheduled at various locations throughout the state. The information gathered will guide legislative action in the 1970 session.

The voting age topic has been a public issue of varying intensity for decades. It is of special concern now due to a variety of factors—particularly the Vietnam war, student activism, the "generation gap" and alienation of youth.

There are some who favor a lower voting age for the simple—and perhaps overworked—argument that "if you can send 18-year-olds to war, you can let them vote." The argument certainly has merit, but it fails to take into account the broader implications traditionally associated with "being of age."

Priolo has pointed this out in insisting that if the voting age is lowered, the attendant age at which a person becomes legally, personally responsible to society for his acts must be lowered to the same level.

Thus, 18- or 19-year-olds would have new legal liabilities in areas of motor vehicle operation, the use of alcoholic beverages and contractual agreements they sign.

They could marry without parental consent if they are males, hold elective public office, serve as jurors and be licensed for a variety of professions now restricted to those over 21.

Law violators would no longer come under the jurisdiction of juvenile courts but would be tried as adults, facing sentencing to state prisons rather than institutions devoted solely to juvenile rehabilitation. Arrest records would become public information open to news media

In short, the lowered age of personal responsibility would have far-ranging impact not only on young people but the entire society

Advocates of a lower voting age suggest that today's youth could accept such adult citizen responsibility because they are better educated, better informed, more widely traveled and more politically "aware" than earlier generations

The real issue, however is not formal education or political "awareness," but maturity. Young people of previous generations were generally required to go to work at an earlier age, assuming the burdens of financial responsibility and self-support

Only a small minority had the benefit of higher education and many were raising families, paying taxes and maturely assuming a responsible role in society long before age 21.

Fortunately, a much larger percentage of young people today can continue post-high-school vocational or academic education, and the specialized, technical world we live in requires it.

But it is questionable whether that leads to "maturity" at an earlier age than in previous generations since most young people today do not become self-sustaining as wage earners, family providers and taxpayers until the post-21 years.

No one in good conscience could flatly reject the arguments which tend to support a lower voting age, especially in view of the keen interest modern young people display in wanting a political voice in shaping their own destiny. But it is a question on which we reserve judgment until the issue is more in focus. Mr. Priolo's hearings are a significant contribution in that respect.

What we're interested in hearing is whether young people themselves feel the right to vote at 18 or 19 is important enough to them to accept the legal and social responsibilities that should accompany the franchise

GREAT BRITAIN—MINIMUM VOTING AGE

New York Times, July 25, 1968

British Government Plans Vote for 18-Year-Olds

Would Add 3 Million to Rolls—Program Also Calls for Longer Hours for Polling

By John M Lee

Special to The New York Times

LONDON, July 24—British youths would be able to vote for Parliament at the age of 18 instead of 21 under changes in electoral laws recommended today by the Government

About three million young people would be enfranchised if Parliament approves the change, as appears likely. The Government is expected to present the issue at the next Parliamentary session for a vote free of party discipline.

In other electoral changes, James Callaghan, the Home Secretary, announced that the Government would permit public opinion polls and betting odds to continue to be published up to the time of an election.

A Parliamentary committee studying electoral reform had recommended that such practices be prohibited for 72 hours before the vote to avoid influencing the outcome. But Mr. Callaghan said it would be hard to suppress evasions of such a prohibition.

The Home Secretary also recommended that the polls remain open until 10 P.M., instead of 9 as at present, and that party labels should be allowed to appear on nomination and ballot papers, if the necessary administrative machinery could be worked out. Candidates are not so identified now.

On all four major changes, the Government went against the recommendations of the Parliamentary Committee, which had studied the issues since 1965 The committee thought the present polling hours of 7 A.M. to 9 P.M. were long enough.

The committee had also recommended reducing the minimum voting age from 21 to 20.

However, Mr. Callaghan recalled that in April the Government had accepted another committee's recommendation that the age of majority be reduced to 18 from 21.

That committee was not concerned with the voting age, but rather with the legal age for marrying without consent, making a will or buying on the installment plan.

Mr. Callaghan told the House of Commons this afternoon, "It would be a little inconsistent to have an age of majority at 18 for all purposes, including the right to enter into contracts, the right to purchase property, and the right even to marry, but not the right to vote for your elected representatives"

Other reasons for the change included the growing maturity of young people, he said.

In all, more than 60 changes in the electoral law were recommended by the Government in a White Paper published today.

GREAT BRITAIN—MINIMUM VOTING AGE

New York Times, January 2, 1970

British 18-Year-Olds Now Adults

By Gloria Emerson

Special to The New York Times

LONDON, Jan 1—"Darling! Now that we're 18 we can do something we've always wanted to do," the girl says coyly to the boy on the cover of a pop art greeting card sent out by the Labor party

What this couple has been yearning to do, it seems, is vote That is what the card says when opened And their chance has come

Today in Britain the age of full legal capacity dropped from 21 to 18. Three million young people are eligible to vote, hold and dispose of property, make binding contracts, make wills, marry without the consent of parents or court, donate blood and make purchases on the installment plan They may also be sent circulars from bookmakers and

be hypnotized for the purpose of public entertainment. And, for the first time, they can be sued if they default on their debts.

Results at Polls Awaited

The Labor party—whose slogan is the party with "life and soul"—wants very much to attract younger voters, even if some older ones are embarrassed or distressed by its techniques Taking credit for reducing the age of majority, the Labor party expects that the new voters will show their gratitude in forthcoming Parliamentary and general elections.

"You're 18," is the message inside the greeting card. "Thanks to Labor you've got the vote; make sure you use it"

But more than a million of these young people have lost the right to vote in 1970–71, according to the Conservative Party Central Office It estimates that only about 60 per cent of the three million new voters have been qualified in the registers.

Failure to qualify may result from omission of the names of young voters by the head of a household when annual registration forms were completed last November Registration is by mail.

The registers affecting the new voters come into force on Feb 16. Young voters who reach the age of 18 by Feb. 15, 1971, should have been entered on the lists.

Report Led to Change

The Family Law Reform Act—the bill that makes the legal age of majority 18—was based on a report in 1967 by a committee appointed by the Lord Chancellor, Lord Gardiner.

In recommending a lower age of majority, the committee cited better education of the young, their greater affluence and sophistication, and earlier physical maturity.

But the vote for 18-year-olds was never a strong issue among the young in Britain Unlike young Americans who have been angered and embittered because they can be drafted at age 18 but—except in Georgia and Kentucky—are not eligible to vote, there was no popular demand here The interests of young voters in municipal matters, according to local information officers, is not impressive. The London borough of Bromley, for example, recently invited new young voters to a "welcome to citizenship" function, expecting at least 700 of the borough's 3,600 new voters. Only 118 attended

Education Is Key Factor

A young reporter for The Evening Standard said today:

"So how many of those who are this new year released from the shackles of minority will be taking advantage of their social license? Going around talking to some of them I found very few who were the slightest bit interested"

"As I suspected, it came down to more an education thing than class thing," the article said "The further educated are more likely to feel that votes are important and urgent; the 17-year-old working girls don't seem to care either way," the reporter concluded

There has been no apparent flood of inquiries at register offices from 18-year-olds wishing to marry on the earliest day, which is Jan. 3.

The Marriage Guidance Council in London has said that the new law is unlikely to produce an influx of young brides in a quandary.

Loan companies, and stores that offer installment-buying plans, may profit slightly by the new law although not many 18-year-olds in Britain will be able to offer proof of a good credit rating, Legally, an 18-year-old may now get a mortgage, but few in this age group are expected to have sufficiently high incomes to secure it There is no evidence yet that a large number of 18-year-olds are trying to buy homes.

An 18-year-old boy in Britain might make about $43 a week in a factory job; an 18-year-old girl, who is a qualified typist and stenographer, might earn $30 in a London office.

Despite the new law, there are still limits for the 18-year-olds While they may now apply for a commercial balloon pilot's license, liability for jury duty service begins as before at 21

The Times of London, in an editorial yesterday, made a comment on the new voters, who must still be 21 to be a candidate for public office.

"Although the 18–20-year-olds have the parliamentary vote they may not become Members of Parliament," it said and added: "A case of Parliament protecting itself from the consequences of its own legislation?"

Attachment 5

Summary of Testimony of State Agencies on Selected Issues Regarding the Age of Majority

I. CRIMINAL LIABILITY

A. Jurisdiction of the Juvenile Court System

1 *Conference of California Judges:*

The judges could not unanimously agree whether the juvenile courts should retain jurisdiction over persons aged 18–21 Most favored retaining juvenile court jurisdiction

However, all agreed that under the current law which gives the superior court the option of transferring persons aged 18–21 to the juvenile court, very few eligible persons are heard in juvenile court. Most of the transferees are for first-time narcotics offenses or other minor offenses

2 *California Youth Authority:*

The Director has stated that, if the voting age were lowered, then juvenile court jurisdiction would have to be removed This would be unfortunate since the present system is highly flexible

B Adult Penalties

1 *Department of Motor Vehicles:*

The Director has stated that offenders between the ages of 18 and 21 should be *just as liable* to license suspension as adult offenders because the majority of these people are handled in the municipal court system

For the same reason, the Director stated that persons between 18 and 21 years of age should have the same benefit of doubt under the law with respect to moving violations

C. Criminal Responsibility of Parent for Support of Minor Children

1 *Conference of California Judges:*

Most judges stated that the parents of persons between 18 and 21 years of age should not be criminally liable for their support. One reason given was the difficulty of enforcement and the unfairness to parents whose children of this age could be self-supporting yet refuse to work

Others qualified their statements by allowing for civil liability or for criminal liability only where the minor child between the ages 18 and 21 is incompetent or dependent on his parents because he is obtaining an education, etc

2 *California Youth Authority:*

The Director stated that for all practical purposes, the parents liability should end at age 18 unless the child is attending school. Civil liability should be provided if the child is dependent and past 21 years of age

II. CIVIL LIABILITY

A. Ability to Disaffirm Contracts

Department of Real Estate:

The Commissioner stated, that persons between 18 and 21 years of age *should not be able to disaffirm* real estate contracts

Practically speaking this *right offers little protection* because the courts allow disaffirmance only when the minor makes the other party whole, i e , pays for the use of the property and pays for any damage incurred while using the property

Persons between the ages of 18 and 21 *demonstrate sufficient experience* and *maturation* to contract for real estate and this maturation is accelerating.

Removing this ability to disaffirm would *support* the *integrity* of *contracts* and free alienability of realty

Existing law permits real estate *salesmen* to be *licensed* at *18* years of age *It is inconsistent* to allow these persons to negotiate contracts for sale of real estate and yet be able to disaffirm their personal contracts

B. Liability for Auto Accidents

Department of Motor Vehicles:

The Director stated that, persons 18–21 years of age should not be held liable for damages arising from the operation of motor vehicles because they do not have the financial ability to pay the damages.

However, if these persons become liable for civil claims in other areas, they should also be liable for those connected with the operation of a motor vehicle.

III. MISCELLANEOUS DISABILITIES

A Driving Privileges

Department of Motor Vehicles:

The Director stated that parents' signatures and proof of ability to respond in damages should be required before persons between 18 and 21 years of age are allowed to operate motor vehicles because such persons do not have the financial ability to respond in damages, for the most part, whereas their parents do

Persons between 18 and 21 years of age should not be allowed to file proof of ability to respond in damages on their own because their parents may not want them to drive

Since the parents accept liability for the minor, the department must cancel a license if the minor's parents so request

B. Right to Qualify as a Highway Patrol Officer

Department of Motor Vehicles:

Persons between the ages of 18–21 should not be permitted to serve in the highway patrol because they do not possess those qualities which the job demands, namely, the utmost in tact, diplomacy and maturity

C. Right to Operate a Driving School or Instruct in Driving

1. *Department of Motor Vehicles:*

Persons between 18 and 21 years of age should not be permitted to instruct in driving because they would not normally have achieved sufficient proficiency in driving to enable them to instruct.

Such persons should not be permitted to operate a driving school because they should not be permitted to instruct in driving and because they would have to accumulate at least 1,000 hours of instruction as a licensed instructor or have received a general secondary credential

D. Right to Determine Legal Residency

1 *University of California:*

The University's President stated that, under present law out-of-state students aged 18–21 are considered to have the residence of their parents. Thus, out-of-state students pay a nonresident tuition fee.

In the 1969–70 academic year there are approximately 3,972 undergraduate nonresident students at the University of California who paid tuition of $4,767,000 for the three quarters

If the age of majority were reduced to 18 years of age, and all those previously nonresident 18–21-year-old students established residency in California, nonresident *undergraduate fee income* would be *reduced by 42 percent* which is the estimated percentage of the undergraduate population estimated to be 19 and 20 years of age.

However, if the University could refuse to allow a student to change his residence once he was admitted to the University, this revenue could be preserved.

2. *Coordinating Council for Higher Education:*

The Director stated that reducing the age of majority would have great impact on the community college system because most of the students attending community colleges are under 21 years of age.

Strict interdistrict rules require tuition payments from the district of the student's residence to the district of his attendance when the student attends college outside his district Such arrangements are made only when the home district does not offer the program desired by the student or in extenuating circumstances

These rules discourage inadequate programming in the home district and overloading of other districts.

The extent of any potential immigration cannot be predicted at this time

3 *California Community Colleges:*

The Chancellor of the Community College system believes that reducing the age of majority would inevitably result in some increase in attendance by out-of-state students, but estimating that impact would be mere guess work

However, the impact would not be significant in relation to the general, overall community college system population

E. Right to Serve as a Juror

1. *Conference of California Judges:*

The judges are split on this issue. Those who were against the proposal that 18–21-year-olds be permitted to serve as jurors believed that such persons do not have sufficient experience and responsibility.

2. *California Youth Autority:*

The Director stated that youth tends to make judgments based on *emotion* rather than *fact.* Because maturity tempers emotion, older jurors are better and more qualified than younger jurors.

3. *California Jury Commissioners Association:*

Practically speaking, reduction of the voting age would have immediate effect and impact on jury selection, since voter registration indexes are the most comprehensive source of potential jurors and are the most frequently used.

However, the procedure is established by the county's superior court judges and could be modified if the voting age were lowered because the fact that a person has registered to vote has no legal bearing on the qualifications of that person as a potential juror.

Realistically, many persons in the age bracket 18–21 are going to school full time and probably could not serve as jurors even if granted the opportunity.

F. Right to Collect Workmen's Compensation

1. *Department of Industrial Relations:*

The Director stated that if a minor is able to handle his own paycheck, then he should be fully competent to handle the compensation check which is a substitute for lost wages

However, if the workmen's compensation claim is contested then important questions arise concerning future medical benefits and possible settlement of the claim which are problems beyond the experience of most persons between 18 and 21 years of age.

Furthermore, in death cases, the claimant would be a dependent and perhaps overcome with grief and unable to handle the claim

Thus, in contested cases, the law should continue to protect persons under 21 years of age.

G. Right to Vote Shares Held in a Corporation

1. *Department of Corporations:*

The Commissioner stated that under present law, a minor may vote shares held in a corporation under his name unless his guardian seeks to exercise that right for him.

Without indicating an opinion the Commissioner stated that the law could allow the minor to vote his shares regardless of the guardian, *except* where the guardian served for reasons of the minor's incompetence rather than his minority alone.

H. Right to Purchase Life Insurance Without Parental Guarantee

1 *Department of Insurance:*

The Insurance Commissioner stated that only 5 percent of the life insurance policies sold in the state are assessable, which type requires parental guarantee of assessed liability

Primary reason for the law requiring the guarantee was that standard life insurance companies sponsored the law Their competitors, fraternal companies, were the only ones which sold assessable insurance. Thus, the guarantee requirement would be a competitive sales tool against fraternal companies

Nevertheless, the guarantee requirement is desirable because minors are not financially able to assume assessment liability.

I. Right to Qualify for Insurance Agent or Broker

1. *Department of Insurance:*

A minor can be licensed as an insurance solicitor or life agent But the eligible age for insurance agents and brokers should remain 21 years of age, because such persons must contract for business expenses and commissions, etc , which should not be subject to disaffirmance.

J. Right to Drink Alcoholic Beverages

1. *Department of Alcoholic Beverage Control:*

The Commissioner stated that lowering the drinking age is less desirable than lowering the voting age because alcohol problems would probably increase if the drinking age were lowered, although there are no statistics which indicate this

For example, because the young frequently attempt to gain stature by acting older, a reduction of the legal drinking age to 18 years of age would probably result in alcohol problems with those persons younger than 18

Licensees would also have trouble with the lower age because it is more difficult to distinguish those younger than 18 years from those 18 and over than it is to distinguish persons younger than 21 from those 21 and over

If the drinking age is to be lowered, a thorough educational program should first be instituted in the schools on the problems of alcoholism

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California Legislature

ETHICAL CONDUCT AND GOVERNMENTAL INTEGRITY

THE CONFLICT OF INTEREST ISSUE

A Joint Staff Report

prepared by

The Assembly Office of Research and the
Assembly Committee on Governmental Organization

February 1970

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ASSEMBLY
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Minority Floor Leader

HON. EUGENE A. CHAPPIE, *Chairman*
Assembly Rules Committee

LETTER OF TRANSMITTAL

February 9, 1970

HONORABLE BOB MONAGAN
Speaker of the Assembly
Assembly Chamber, State Capitol
Sacramento, California

Dear Speaker Monagan:

This report is in response to your request that the Assembly Office of Research, in cooperation with the Assembly Committee on Governmental Organization, study and recommend improvement in California's conflict of interest laws It is based upon an intensive four-month cooperative study which included the following steps:

1. Analysis of California's present conflict of interest statutes;
2. Review and analysis of appropriate federal laws as well as statutes in 26 other states;
3. Numerous discussions and conferences with state and local government officials, attorneys, distinguished law professors; and
4. Careful analysis of testimony presented to the Assembly Governmental Organization Committee at a Sacramento public hearing on October 30, 1969

We would like to express our appreciation to Parke D Terry, of the Assembly Office of Research, and William Hauck, Consultant to the Assembly Governmental Organization Committee, who prepared this report; and to Stephen Barnett, Acting Professor of Law, Boalt Hall, University of California; Kirk West, Deputy Director, State Department of Finance, and George H Murphy, Legislative Counsel, who provided valuable assistance in developing both the report and its accompanying draft legislation

We hope the recommendations in this report will provide the Legislature with guidelines for the enactment of a comprehensive conflict of interest statute which will promote the highest level of governmental integrity without discouraging outstanding citizens from seeking public office.

Respectfully submitted,

ALBERT J LIPSON
Chief Consultant to the Assembly

TABLE OF CONTENTS

SUMMARY OF RECOMMENDATIONS

- Consolidate into one conflict of interest statute all conflict of interest provisions currently scattered throughout the Government Code.

- Extend and expand existing law which prohibits state and local governmental officers and employees from having any interest in a contract made by them in their official capacity or by any body or board of which they are members.

- Abolish the Joint Legislative Ethics Committee and create independent commissions for the legislative and executive branches on ethics and conflict of interest to assure the people that the highest standards of ethical behavior are being maintained in government. These commissions should have the power to investigate allegations of unethical conduct, to issue advisory opinions to public officials and employees and to study and make recommendations continually for the improvement of conflict of interest laws and procedures

- For the two years following his separation from state service, prohibit a former state agency employee from receiving compensation for any services rendered on behalf of any private interest in relation to any transaction, proceeding or application in which he was directly involved during his service or employment

- Extend existing Code of Ethics provisions to cover all state public officers and employees

- Strengthen and revise sections of the public disclosure law enacted in 1969 by the following actions:

  (a) Extending disclosure provisions to most state and local officers and employees.

  (b) Reducing from $10,000 to $1,000 the amount over which a person having a single interest of that value must file a statement. If the interest exceeds $1,000, the person should state whether it is more or less than $5,000. A specific statement of net value should not be required

  (c) Permitting any local governmental agency to enact by ordinance stricter provisions than those contained in state law.

  (d) Requiring immediate disclosure of the net value of new acquisitions of financial interests in any business entity which is directly regulated by the employee's appointing authority.

- Reducing from $500 to $100 the campaign contributions which must be reported (with the contributor's name) by any candidate for public office.

PREFACE

At the close of the 1969 session of the Legislature, Assembly Speaker Bob Monagan requested the Assembly Office of Research and the Assembly Committee on Governmental Organization to begin a study of conflict of interest laws in California and the United States and to recommend how the state's conflict of interest laws could be improved and strengthened.

The impetus for this study came from the realization that California had enacted several conflict of interest statutes without developing a comprehensive approach or master plan for dealing with the complex issues of ethical conduct and governmental integrity

Questions were also raised as to whether the Code of Ethics and the Joint Legislative Ethics Committee were adequate and whether the Code's application to only a limited number of public officials was equitable

Numerous questions also arose concerning the legal interpretation and application of the 1969 disclosure law which requires certain public officials to file a statement listing their personal financial assets

A fundamental premise of our research was that the development of legislation dealing with moral and ethical standards of conduct for public officials is a task which must be approached carefully in an era when moral and ethical standards at all levels of society are becoming increasingly difficult to define

Nevertheless, it is also apparent that society is entering an era in which the process of government will become more complex and in which "ethics must become a dominant concern if we are to survive." [1]

With the grosser larcenies of government (i.e., bribery, embezzlement, extortion) adequately proscribed by penal sanction, legislative bodies across the nation have moved to enact conflict of interest measures. By the end of 1969, 26 states and the federal government had passed legislation in the field [2]

The California Legislature first acted in the conflict of interest field in 1943 with the passage of Government Code Section 1090 The section prohibited certain public officials from being financially interested in contracts made by them in their official capacity

The ensuing 26 years have witnessed the enactment in the state of a number of other conflict of interest provisions which have been scattered throughout the California codes In addition, the executive branch has established informal standards of conduct with statements of incompatible activities, executive orders, and departmental rules and regulations. The judicial branch has developed its own canons of ethics

[1] U S Congress, House, Committee on Standards of Official Conduct, *Hearings on Proposals for Standards of Official Conduct* 90th Cong , 1st Session, 1967, p 23

[2] The states which have enacted conflict of interest legislation are Arizona, Arkansas, California, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Maryland, Massachusetts, Nebraska, New York, New Mexico, New Jersey, Oklahoma, Pennsylvania, South Dakota, Texas, Washington, and West Virginia

Because the scope of conflict of interest is broad and highly elusive,[3] this report is limited to analysis and recommendations relating to personal financial interests and general standards of ethical conduct for state and local governmental officials and employees.

This report should not be interpreted as being the final statement on conflict of interest in California because there is a need for continuous evaluation and study of these laws as provided for in the recommendations.

An attempt has been made, however, to outline reasonable standards of conduct for public officials which should further elevate the integrity of government and at the same time encourage competent and imaginative individuals to enter public service.

[3] Association of the Bar of New York City, *Conflict of Interest and Federal Service* (Cambridge Harvard University Press, 1960), p 12

Much like "sin," few can define a conflict of interest, yet all are against it.[4]

DEFINING A CONFLICT OF INTEREST

While the problem of conflicting public and private interests has been with man since his first attempt at organizing ancient family and tribal groups to form a government, an adequate definition of the term "conflict of interest" has eluded most writers

In the broadest sense, the term can be applied to any situation in which "two interests clash or *appear to clash*"[5] (Emphasis added.) Under this definition the fact that a public official has investments or financial interests in private holdings might appear to present a conflict of interest even though no unethical conduct actually exists. If we were to strictly apply this definition, a conflict of interest might exist whenever a public official was not engaged with government business

Unfortunately, modern political rhetoric has attempted to associate the term "conflict of interest" with recognized crimes, such as bribery or extortion In fact, the existence of conflicting interests "does not necessarily presuppose that action by the official favoring one of these interests will be prejudicial to the other, nor that the official will resolve the conflict to his own personal advantage rather than the government's."[6]

On the contrary, the existence of competing interests may offer an advantage to government because a private interest is often indicative of special knowledge developed by the public official which may be useful in setting public policy.

For example, the farmer-legislator may be involved in a potential conflict of interest situation when he serves on the Agriculture Committee and votes on issues which will indirectly benefit his private interests in farming as well as the interests of other farmers in his district. Or consider the lawyer-legislator who serves on the Judiciary Committee and votes on proposals which would, if enacted, benefit his law firm and thousands of other attorneys in the state.

Each of these cases involves interests which "conflict or appear to conflict," but it would be an unwise legislative body which would place a predominance of farmers on the Judiciary Committee and several attorneys on the Agriculture Committee simply to avoid any possibility that an unethical conflict of interest might arise

Unless we choose to be governed by Plato's philosopher-kings who were forbidden from accumulating private property,[7] it is obvious that all conflict of interest situations cannot and should not be eliminated by administrative or legislative fiat.

[4] Note, Conflict of Interest, 70 West Virginia Law Review 400 (1968).
[5] Association of the Bar, *Conflict of Interest and Federal Service*, p. 3.
[6] Association of the Bar, *Conflict of Interest and Federal Service*, p. 4.
[7] Plato *The Republic* 543c

The public servant should be entitled to privacy On the other hand, the private financial dealings of public officials should not be so shrouded in secrecy that suspicion is encouraged along with the temptation to violate the public trust

A New York State Advisory Committee on Ethical Standards spotlighted this difficulty in a declaration of intent prefacing conflict of interest legislation enacted by the New York Legislature in 1954

The committee stated:

> [Conflicts of interest] may arise in so many different forms and under such a wide variety of circumstances, that it would be unwise and unjust to proscribe them by statute with inflexible and penal sanctions which would limit public service to the very wealthy or the very poor [8]

Among the 26 other states which have enacted conflict of interest laws, the strong weight of authority supports the proposition that ethics laws must insure the public's right to expect honesty in the conduct of its public officials as well as the public official's right to privacy in his day-to-day activities.

Most states have concluded that it would be unwise to proscribe situations in which a conflict of interest might arise They have recognized that it is not the conflict of competing interests which should be prohibited, but any unethical actions arising out of them

This report, therefore, focuses on conflicts of interest which relate to (1) the interest of a state or local government official (and of the public) in the proper administration of his office and (2) the government official's interest in his private economic affairs

[8] New York Legislature, Declaration of Intent, *New York Laws* (1954), Ch 698 Sec 1.

CONFLICT OF INTEREST GUIDELINES

The broad objectives of conflict of interest laws should be (1) to maintain high ethical conduct among public officials; (2) to encourage public confidence in governmental integrity, (3) to prevent the use of public office for private gain, and (4) to insure the appeal of public service to the best qualified individuals

In addition to these broad objectives, our study has identified the following specific goals and objectives·

A. *Make Statutory Provisions Clear and Certain*

Conflict of interest laws, like all laws, should clearly and precisely describe what action is to be taken or prohibited Yet, because of the complexity of the conflict of interest problem, no conflict of interest law can be drafted with sufficient clarity to deal with the full range of moral and ethical problems confronting public officials. It is possible, however, to (1) develop general ethical standards for public officials and employees, (2) develop specific prohibitions of clearly unethical practices or conduct, and (3) establish a mechanism for deciding whether specific ethical situations are unlawful or undesirable

Old statutes should be amended to eliminate duplication and inconsistencies

Whenever possible, conflict of interest laws should be consolidated for purposes of clarity, uniformity of application and equitable administration

B. *Proscribe Contractual Conflicts*

Whenever a public official has a personal financial interest in a contract which he makes in his official capacity, there is an obvious unethical conflict of interest

In California such conduct is expressly prohibited and statutes involving such conduct should be strictly enforced

C. *Selectively Prohibit Noncontractual Conflicts*

Certain specific noncontractual conflicts of interest can be identified and should be prohibited

Examples of unlawful noncontractual conflicts of interest would include a government official who engaged in business activities which were in direct and substantial conflict with his public duty or a government official who disclosed confidential information

D. *Encourage Disclosure Provisions*

Eleven state legislatures have enacted disclosure provisions, and most legal scholars support the disclosure approach to conflict of interest legislation [9]

[9] The states which have adopted the disclosure approach to conflict of interest legislation are California, Hawaii, Illinois, Kansas, Missouri, Nebraska, New Mexico, New York, Pennsylvania, Washington, and West Virginia

Requiring public officials to disclose their financial interests should deter the person disclosing from temptation to engage in unethical conduct and also allow the voters to become aware of the areas in which it is possible for a conflict of interest to occur.[10] Voters who become acquainted with any unethical conduct may then censure the offending official in the most effective way—at the voting booth

Precautions should be taken, however, to insure that public disclosure is not so burdensome as to interfere unnecessarily with the privacy of a public official or employee.

E. *Recognize Distinctions Between Elected, Appointed and Employed Public Servants*

The public expects an even higher level of integrity from elected officials than from civil servants. This conclusion seems justified in view of the usually greater potential opportunity for elected public officials to become involved in situations where conflicts of interest might arise.

Legislation should recognize the distinction between various levels of government officials and adapt conflict of interest provisions which apply stricter standards to elected officials—especially in the field of disclosure.

F. *Develop Effective Enforcement Machinery*

Any conflict of interest law is significantly diminished in value if it is practically unenforceable or makes no provision for enforcement.

Statutes should utilize the full range of administrative, civil and criminal sanctions available in the law. Criminal sanctions should be flexible so that the relative severity of the public offense can be taken into account and dealt with accordingly.

In the case of elected public officials, irresponsible allegations and political witch hunts should be guarded against by establishing a commission, modeled after a grand jury, which would privately investigate complaints and report its findings to the appropriate law enforcement agency.

[10] U S Congress, House, *Hearings*, p 24

EXISTING CALIFORNIA LAW

Contractual Interests

Government Code Sections 1090–1097 specify conditions under which public officers and employees (state and local) are prohibited from making or being interested in contracts, or from becoming a vendor or purchaser at sales or from purchasing script or other evidences of indebtedness.

This section is based on the English common law and seeks to insure that public officers in the discharge of their responsibilities are absolutely free from any influence other than that which flows out of their obligations to the public at large A further objective of this provision is to prevent any personal interest from influencing an official's decision and to void any contract which has been obtained where a conflict of interest existed. [11]

Section 1090 has been extensively and strictly interpreted by the courts and has generally been deemed adequate to protect the public. [12] (See Appendix A)

Disclosure of Financial Interests by Local Public Officers

Government Code Section 1120 requires members of governing bodies, boards or commissions of any local public agency to disclose any direct personal financial interest in any noncontractual matter coming before such governing body, board or commission

This section of the code received strong support from the League of California Cities when it was enacted in 1967 There is, however, considerable question as to whether it is inconsistent with the spirit of the public disclosure law passed by the Legislature in 1969. (See Appendix A.)

Public Disclosure of Financial Interests

Government Code Sections 3600–3754 were enacted by the Legislature in 1969. They appear to require public disclosure of the dollar value of private financial interests in excess of $10,000 by Members of the Legislature, employees of the Legislature, and the Governor's office, career executives in state civil service, elective state and local public officers and the highest appointive or civil service employees in each department of a state or local public agency Section 3750 provides for the disclosure of campaign contributors who give more than $500 as a single contribution.

Since the passage of the disclosure law, a great number of questions have been raised concerning its legal interpretation and its effect on public officials and employees.

In November of 1969, a group of city attorneys, county counsels and others requested the California Attorney General to prepare an opinion on the 1969 disclosure law which would answer more than 40 legal

[11] Dan Kaufmann and Alan J Widiss, "The California Conflict of Interest Laws," 36 Southern California Law Review 186 (1963).
[12] Kaufmann and Widiss, "California Conflict of Interest Laws," p. 188.

questions the group raised, including whether the law was so vague and uncertain that it would be voided by the courts. The Attorney General released his opinion on February 4, 1970. On February 6, 1970, the California Supreme Court agreed to consider a complaint for declaratory relief brought by the City of Carmel-By-The-Sea. (See Appendix D.)

In the meantime, a number of local government officers expressed the concern that public disclosure of the net value of their financial holdings was an unjustified intrusion into their private affairs and that some public officials would resign rather than comply with the new disclosure law.[13]

Legal authorities have offered four basic objections to the revelation of private financial holdings

"(a) The proposals impose criminal sanctions upon conduct that is not inherently discreditable,
(b) An honest majority is subject to an onerous reporting requirement;
(c) A disclosure requirement amounts to a deprivation of privacy that ordinary citizens enjoy with respect to their holdings; and
(d) Doubts as to the precise boundaries of propriety do not justify an inquisition into private affairs"[14]

Opponents of public disclosure also raised the issue of whether the businessman-public official might be placed at a professional disadvantage if he were forced to divulge the net value of his holdings to business competitors.[15]

In addition, opposition was expressed to requiring civil service employees and persons who serve without pay on special boards and commissions to disclose financial interests in all businesses which are subject to the regulation of the state.[16]

As Dr. Robert S. Getz, author of *Congressional Ethics: The Conflict of Interest Issue*,[17] has noted, however, "These contentions do not stand up to the argument that the acceptance of public office carries with it some loss of privacy. Legislators are paid out of public funds and help formulate and cast votes on legislation which affects their constituents and their own well being."[18] While some public officials are not paid out of public funds, they nevertheless are responsible for the fiscal integrity of the public agency in which they serve.

Dr. Franklin P. Kilpatrick, formerly with the Brookings Institution, also has argued strongly for disclosure. During a 1967 appearance before the House Committee on Standards of Official Conduct, Kilpatrick said, "Even though disclosure is a painful invasion of privacy, it seems to me not too high a price to pay for the privilege of public office and the gain in public confidence."[19]

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[13] *Resolution No. 65 69-70, Relative to Disclosure of Assets Law*, adopted by the City Council of Chico, California, January 20, 1970; Resolution No. 2632, relative to disclosure, adopted by the City of Carmel-By-The-Sea, California, January, 1970.
[14] U.S. Congress, House, *Hearings*, p. 58.
[15] Statement of Richard Carpenter, executive director and general counsel, League of California Cities, before the hearing of the Assembly Committee on Governmental Organization, October 30, 1969.
[16] *Ibid.*
[17] Robert S. Getz, *Congressional Ethics: The Conflict of Interest Issue* (Princeton, New Jersey: D. Van Nostrand Co., Inc., 1966).
[18] U.S. Congress, House, *Hearings*, p. 58.
[19] U.S. Congress, House, *Hearings*, p. 22.

As a result of its committee study and many previous studies and recommendations, the House finally, in 1968, approved the inclusion of Rule XLIV, "Financial Disclosure," as a permanent part of its rules The rule provides for the filing of a public statement of personal interests with the value of each interest remaining confidential The House Committee on Standards of Official Conduct recently urged adoption of new financial disclosure rules dealing with loans and speaking fees Representatives would have to tell the public about the source of any speech fees exceeding $300 and the source of any unsecured loans for more than $10,000. (See Appendix A for additional discussion of this issue)

Code of Ethics

Government Code Sections 8920–8955 (the Code of Ethics) proscribe interests in substantial conflict with the discharge of public duties. The Code of Ethics is applicable to Members of the Legislature, legislative employees, state elective and appointive officers, judges and justices. In general, it prohibits these officials from having any interest, financial or otherwise, direct or indirect, or from engaging in any business or transaction of any nature which is in substantial conflict with the proper discharge of their duties in the public interest. Sections 8940–8955 establish the Joint Legislative Ethics Committee

The Code of Ethics was enacted in 1966 in conjunction with a California constitutional amendment which, among other provisions, increased legislative salaries In essence, the code is a general statement of standards of conduct

The present Code of Ethics has been criticized for (a) not providing adequate mechanisms for enforcement and (b) for excluding state civil service personnel and local public officials [20]

In addition, the Joint Legislative Ethics Committee has been sharply criticized by the press for failing to investigate adequately allegations of conflict of interest [21]

The Code of Ethics also lacks the benefit of appellate court interpretation because of its relatively recent enactment (See Appendix A for additional discussion of this section)

Miscellaneous Sections

In addition to provisions in the Government Code, other California codes and the California Constitution deal with the broad area of conflict of interest These provisions are discussed in Appendix A.

[20] *Los Angeles Times*, December 18, 1968, p 2, *San Francisco Bay Guardian*, August 18, 1969, pp 1 and 3

[21] *Los Angeles Times*, December 23, 1968, July 25, 1969

CONFLICT OF INTEREST LAWS IN OTHER JURISDICTIONS

Analysis of the conflict of interest laws in 26 other jurisdictions reveals that most states have taken a limited approach in this field.

Many states limit their conflict of interest statutes to state government and cover only persons in the executive and legislative branches Only four states (California, Illinois, Michigan and West Virginia) specifically include members of the judiciary in their conflict of interest laws

While 17 states include state civil service employees in their ethics legislation, none includes civil service employees in local government

Among the most popular conflict of interest provisions enacted by the states are (1) prohibitions of conflicting employment, (2) receipt of gifts, services, loans and favors, (3) regulation of private transactions with or on behalf of the state or employer agency; and (4) regulating lawyer-legislator representation of private interests in transactions with the state

Moderate legislative support has been given to regulation of additional compensation from nonstate sources, prohibitions on the disclosure or adverse use of confidential information, regulation of the lawyer-legislator's appearances before state agencies, and public disclosure of financial interests

Few states have enacted conflict of interest laws which strictly prohibit the acquisition of any potential conflicting financial interests Few state legislatures have favored regulation of private sales to or purchases from firms regulated or licensed by the state, regulation of personal interests in businesses regulated or licensed by the state, and a requirement of disqualification or nonparticipation in official action

A detailed analysis and survey of the provisions of those states which have enacted conflict of interest legislation can be found in Appendices B and C

RECOMMENDATIONS

A. *Consolidate the State's Conflict of Interest Laws*

All Government Code provisions relating to conflict of interest should be placed together in one division

In addition to providing additional clarity, uniformity of application and equitable administration, the consolidation of these laws will allow for quick reference to the state's conflict of interest laws and will demonstrate that the Legislature has developed uniform statewide guidelines concerning the ethical conduct of governmental officers and employees

B. *Expand Prohibitions Against Conflicting Contractual Interests*

Government Code Section 1090 currently prohibits public officers from being "financially interested in any contract *made* by them in their official capacity" (Emphasis added)

This section was significantly expanded by the case of *Stigall v. City of Taft*,[22] in which Justice Thomas P White stated:

> [W]e are persuaded, if not compelled, to reject . . the narrow and technical interpretation of the word "make" and construe its statutory meaning to encompass the planning, preliminary discussions, compromise, drawing of plans and specifications and solicitation of bids .

We recommend that the judicial interpretation given to Section 1090 be codified This change could be accomplished by rewording the section to provide that public officers shall not be financially interested in any contract made *or negotiated* by them in their official capacity.

C. *Tighten Control Over Post-employment Dealings With the State*

California statutes have never included "provisions dealing with the activities of former officers and employees of the local or state governments"[23] As a result, it is possible for "a government official in charge of a matter to vacate his office on Friday and on Monday morning reappear representing a private party in the same matter"[24]

It is recommended, therefore, that the Legislature enact a post-employment provision which would prohibit a person who has served as an officer or employee of a state agency from appearing before such a state agency or receiving compensation for services rendered on behalf of any person or organization in relation to any transaction, proceeding or application with respect to which such person was directly involved during the period of his service or employment This restriction would be in effect for a period of two years

Although it is clear that post-employment restraints can be overly stringent, "hurting the government more than they help,"[25] the argu-

[22] *Stigall* v *City of Taft*, 25 Cal Rptr 441, 58 Cal 2d 565, 375 P 2d 289 (1962)
[23] Kaufmann and Widiss, "California Conflict of Interest Laws," p 204
[24] Association of the Bar, *Conflict of Interest*, p 223
[25] Association of the Bar, *Conflict of Interest*, p 224

ments supporting certain reasonable restrictions are strong As Stanford Law School Dean Bayless Manning noted, "probably the greatest concern is that the former employee, especially if he held a high position, may carry over a special influence from his former office and, in representing a private party, may work to the prejudice of the government and other competing private parties "[26]

A second argument favoring post-employment restrictions "is the fear that the former employee has acquired special inside information that gives him an improper advantage in subsequent dealings, either as against the government or as against other private parties dealing with the government "[27]

Finally, a government official while still employed may, in anticipation of a subsequent job offer in private enterprise, fail to pursue his task aggressively Thus, "the greatest public risks arising from post-employment conduct may well occur *during* the period of government employment, through the dampening of the administration of government policies "[28]

Clearly, if a person coming to government service for the first time was informed of a reasonable post-employment restriction it is possible that such a temptation would not arise or would be minimal

D. *Enlarge the Class of Persons Covered by the Code of Ethics*

Certain specific measures pertaining to legislators in Sections 8920–8955 should be extended to cover persons employed in the state civil service system

These measures include such noncontractual prohibitions as conflicting employment, disclosure of confidential information, receipt of rewards or gifts for advice or assistance

These general standards of conduct should be equitably applied to all levels of state government Further studies should be conducted to determine if local government officials should also be included within the Code of Ethics.

E. *Clarify and Expand Existing Disclosure Provisions*

The questions that have been raised indicate that the present disclosure law is vague and uncertain in many respects and also appears to invade unjustifiably the privacy of some public officials In addition, it completely excludes certain public officials who should be covered by a disclosure law

It is, therefore, recommended that Government Code Sections 3600, et seq be clarified and selectively expanded

It has been concluded that disclosure is a sound approach to conflict of interest, but that its objectives do not require listing the specific value of a person's financial holdings

Instead, it is recommended that a reduction be made from $10,000 to $1,000 in the amount over which a person having a single interest of that value must file a statement If the interest exceeds $1,000, the person should state whether it is more or less than $5,000 A specific statement of net value would not be required Thus the principal em-

[26] Association of the Bar, *Conflict of Interest*, p 223
[27] Association of the Bar, *Conflict of Interest*, p 223
[28] Association of the Bar, *Conflict of Interest*, p 234

Although it would not have the power to issue indictments, the commission would function in a manner similar to a grand jury.

The commission should consist of seven distinguished citizens who exemplify the highest standards of ethical conduct In addition, the members of the commission should demonstrate a constructive concern with the quality and integrity of government Whenever possible, members should be persons with prior experience in governmental affairs or former public office holders Members and employees of the Legislature would be ineligible

The chairman of the commission would be nominated by the Senate Rules Committee and the Speaker of the Assembly. From the nominations submitted, the Joint Rules Committee would select the chairman.

Two members would be chosen by agreement between the Senate Rules Committee and the Minority Leader of the Senate. Two additional members would be chosen in the same manner by the Speaker of the Assembly and the Minority Leader of the Assembly Two of the members chosen by each house would be nominated by the Judicial Council of California Each member would be appointed to a two-year term.

The commission would be empowered to conduct hearings and issue findings of fact to the district attorney of the appropriate county. It would conduct closed hearings concerning a violation of the conflict of interest act unless the person against whom an allegation is made requests a public hearing If the commission finds that no law has been violated, it would submit its findings to the Rules Committee of the house in which the accused is a member or employee Such a determination by the commission would not be binding on local law enforcement agencies If the commission had not acted within 120 days, a district attorney might file charges against a legislator or employee.

In addition, the commission would be required to develop and implement an information program to apprise all persons covered by the conflict of interest laws of their obligations under its provisions They would also be required to evaluate continuously the effectiveness of the state's conflict of interest laws and recommend to the Legislature any improvements which should be considered

State Executive Branch

It is recommended that a similar commission be created to investigate alleged violations of the conflict of interest act in the executive branch.

It is suggested that the members of the commission be selected by the Governor and include at least one department head and one person selected from the state civil service system.

The rationale for the establishment of independent investigatory and advisory commission to administer the state's conflict of interest laws is based partially on the failure of the executive and legislative branches to develop effective methods of investigating and responding to allegations of unethical conduct by state elected and appointed officials or employees.

The Joint Legislative Ethics Committee was a forward step, but it is difficult for Members of the Legislature to investigate fellow members with whom they may be closely associated in both their public and private lives.

Moreover, the procedural requirements of the committee were unnecessarily complex and discouraged speedy and informative investigations

The executive branch of California government is similarly handicapped by a lack of any centralization of responsibility for the coordination and administration of the scattered conflict of interest statutes.

More often than not, conflict of interest policy decisions have been left to a member of the Governor's staff who has added it as "just another task on an endless list of operational responsibilities" [29]

In addition, executive statements of incompatible activities have been developed and approved for many, but not all, state departments and agencies The statements are often inconsistent and too general to be effective deterrents to temptation

Both commissions should have the additional advantage of being able to conduct their investigations away from political pressure groups—thus avoiding political witch hunts and providing effective control of ill-motivated and unfounded allegations

[29] Association of the Bar, *Conflict of Interest*, p 192

APPENDIX A

ANALYSIS OF PRESENT CALIFORNIA CONFLICT OF INTEREST LAWS

This analysis of California laws relating to governmental conflicts of interest was developed in cooperation with the Office of the Legislative Counsel It should not, however, be interpreted as a formal opinion of that office

Government Code Sections 1090–1097

These sections specify conditions under which public officers and employees (both state and local) are prohibited from making or being interested in contracts or from becoming vendors or purchasers at sales or from purchasing scrip or other evidences of indebtedness

Analysis This law has been amended several times since its enactment in 1943, but it still retains its emphasis on proscribing contractual conflicts of interest The maximum penalty for a willful violation of the requirements of these sections is a $1,000 fine or imprisonment in the state penitentiary for not more than five years and disqualification from holding any public office in the state

These sections specifically cover Members of the Legislature, state, county, special district, judicial district and city officers and employees

Government Code Sections 1090 et seq have had the benefit of extensive judicial interpretation since their enactment, and the courts have shown a strong tendency to apply the law strictly

In *Schaefer v. Berinstein*, 140 C A 2d 278, 295 P 2d 113 (1956), the court held that a person merely in an advisory position is affected by the conflict of interest provisions of Section 1090. *Terry v. Bender*, 143 C A 2d 198, 300 P 2d 119 (1956), concluded that statutes prohibiting conflicts of interest by a public officer, i e. Government Code Section 1090, should be strictly enforced.

The court in *Terry v Bender* distilled the rule as follows:

> It is . the general policy of this state that public officers shall not have a personal interest in any contract made in their official capacity. A transaction in which the prohibited interest of a public officer appears is void both as repugnant to the public policy expressed in the statutes and because the interest of the officer interferes with the unfettered discharge of his duty to the public. The public officer's interest need not be a direct one, since the purpose of the statutes is also to remove all indirect influence of an interested official as well as to discourage deliberate dishonesty.

Government Code Section 1120

This code section requires members of governing bodies, boards and commissions of any local public agency to disclose any *direct personal financial interest in any noncontractual matter* coming before such governing body, board or commission

Analysis This section was added to the Government Code in 1967, primarily through the efforts of the League of California Cities. The

first drafts of the disclosure law passed by the 1969 session of the Legislature included a provision for the repeal of Section 1120, however, since it was felt that the new disclosure law was the stronger of the two laws, the final form of the bill did not include a repeal of Section 1120

It should be emphasized that the 1969 disclosure act and Section 1120 represent two very different approaches to the public disclosure method of regulating conflicts of interest

Section 1120 provides that disclosure need only be made when the public official decides that he has a direct personal financial interest in a noncontractual matter coming before his public agency The 1969 disclosure law provides for annual disclosure of specified investments, regardless of whether a conflict of interest exists

In addition, the 1969 disclosure law and Section 1120 apply totally different criteria for determining the disclosure of investments which are deemed to be regulated by the public official's governmental body, board or commission The 1969 disclosure provisions require disclosure of certain investments which (1) are "subject to the regulation" of the state and (2) are in excess of $10,000 Section 1120 requires disclosure of the ownership of shares amounting to 3 percent or more of the total shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, does not exceed 5 percent of an official's total annual income, and any other payments made to the official by the corporation do not exceed 5 percent of his total income

As a result of this discrepancy, a member of a local school board having a 10 percent interest in a small textbook company which is capitalized at less than $100,000 would be required to disclose his interest under Section 1120 He would not, however, have to disclose his interest under the requirements of the 1969 disclosure act

Conversely, the same school board member could have a $100,000 investment in a large textbook corporation and not have to disclose under Section 1120 He would, however, have to disclose under the 1969 disclosure law if the corporation was subject to the regulation of the state

Government Code Sections 3600–3754

These code sections were passed by the Legislature during the 1969 session as AB 325 They require public disclosure of private financial interests in excess of $10,000 by Members of the Legislature, the Chief Clerk and Sergeant at Arms of the Assembly, the Secretary and the Sergeant at Arms of the Senate, an administrative aide or committee consultant of the Legislature and any secretary of the Governor. In addition the section appears to cover high-level executives in state and local civil service Section 3750 provides for disclosure of campaign contributors who give more than $500 Political committees would also have to disclose their contributions to candidates

Analysis The basic concerns surrounding the 1969 disclosure act are (1) whether it will be held void for vagueness, (2) the meaning of the term "subject to regulation", (3) the meaning of the term "investments"; (4) the meaning of the term "nature and extent" of an investment; and (5) the practical application of the $10,000 limit.

Although some attorneys have expressed a belief that the 1969 disclosure law will fall victim to a "void for vagueness" argument in the courts, this is unlikely The courts usually make every effort to uphold new statutory law unless men of ordinary intelligence must guess at its meaning and differ as to its application.

The term "subject to regulation" will probably be liberally applied in accord with the legislative intent expressed in the act Thus, all investments over the $10,000 limit would have to be disclosed even though they might be only indirectly regulated or potentially regulated

It would also appear that the term "investments" refers to real property held for income or gain (excluding a home or property used primarily for personal or recreational purposes), ownership of shares in a corporation and ownership of a financial interest in a business entity which is subject to regulation by any state or local public agency.

Section 3605 delineates those persons covered by the act and includes "the appointive or civil service employees of the highest class or grade of each department, bureau, division, or other administrative subdivision of a public agency." Confusion as to what persons are covered is great at the local level, although the problem is exaggerated, for Section 3604 allows and requires the local public agencies *themselves* to adopt regulations to determine what persons are within the "highest class or grade "

Unlike the New York law, which only requires one to check whether his interest is over or under a specified amount, the use of the term "nature and extent" appears to require the full disclosure of *each* investment over $10,000

As to whether the $10,000 limit applies to each investment or to the aggregate amount of all investments, it is probable that a person need only disclose if the individual investment is in excess of $10,000.

Government Code Sections 8920–8955

These code sections, commonly known as the Code of Ethics, proscribe interests in substantial conflict with the discharge of public duties The Code of Ethics is applicable to Members of the Legislature, legislative employees, state elective and appointive officers, judges and justices. In general, the case prohibits these officials from having any interest, financial or otherwise, direct or indirect, or from engaging in any business or transaction of any nature which is in substantial conflict with the proper discharge of their duties in the public interest Sections 8940–8955 create the Joint Legislative Ethics Committee

Analysis Much of the wording and general tone of these sections has been adapted from Sections 73 and 74 of the New York Public Officers Law There are, however, substantial differences which are apparent in the scope of the law and the potential penalties

California extends the following prohibitions only to Members of the Legislature conflicting employment, disclosure of confidential information, receiving rewards or gifts for advice or assistance on matters related to the legislative process, and voting on matters in which they have a personal interest Furthermore, California increases the penalties for violations of its Code of Ethics to a misdemeanor or a felony in the event of a conspiracy to violate its provisions

Under Section 8943, the Joint Legislative Ethics Committee has the power to investigate and make findings and recommendations to the Assembly or Senate on alleged violations of Sections 8920–8926 The accused is allowed the basic rights of due process, and, if it is found that he violated provisions of the Code of Ethics, the committee sends copies of its findings to the house in which the accused serves, the Attorney General and the district attorney of the appropriate county. A finding by the committee that the accused has not violated the Code of Ethics does not preclude filing of a criminal complaint by a district attorney or grand jury.

In effect, the Joint Legislative Ethics Committee is an advisory body. It does not have the power to penalize a legislator accused of wrongdoing. It may only recommend that some other body or person institute proceedings

Penal Code Section 182

This statute embodies California's conspiracy laws making it a felony for two or more persons to conspire to commit any crime or "to commit any act injurious to the public health, to public morals, or to prevent or obstruct justice, or the due administration of the laws"

Analysis. While Section 182 has never been used to prosecute a conflict of interest violation, it is possible for a felony complaint to arise out of this section either in lieu of or to supplement violations of Government Code provisions

Additional Conflict of Interest Laws

A. Section 13 of Article IV of the California Constitution prohibits Members of the Legislature from holding "any office or employment under the state other than an elective office"

B. Section 28 of Article IV of the California Constitution prohibits a person holding a lucrative office under the United States from holding any civil office of profit in California Exempted are local officers and postmasters earning less than $500 a month

C Government Code Section 19251 prohibits state employees from engaging in activities determined to be "clearly inconsistent, incompatible, in conflict with, or inimical to" their duties as state employees The various appointing powers, with the approval of the State Personnel Board, are responsible for determining which activities are incompatible.

APPENDIX B

COMPARISON OF CALIFORNIA'S CONFLICT OF INTEREST LAWS WITH SIMILAR LEGISLATION IN OTHER STATES

Comparing the conflict of interest laws of different jurisdictions is a difficult task Although many of the laws appear similar, minor variations of wording and interpretation abound.

The best approach is to categorize the interests and activities which the states have attempted to regulate. Even this comparison should be viewed with caution, however, as the effectiveness of any given legislation is closely related to the degree of enforcement.

At the end of 1969, 26 states had enacted some form of conflict of interest legislation. These states included:

Central states
Illinois
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
Oklahoma
South Dakota

Western states
Arizona
California
Hawaii
New Mexico
Washington

Eastern states
Maryland
Massachusetts
New Jersey
New York
Pennsylvania
West Virginia

Southern states
Arkansas
Florida
Georgia
Kentucky
Louisiana
Texas

More than half of the states listed enacted legislation within the past two years Many other states are considering the enactment of conflict of interest legislation in the immediate future

Scope of Coverage

In California, Illinois, Massachusetts, Michigan, and Washington conflict of interest legislation applies to all three branches of government The prevailing practice, however, is to apply ethics legislation only to the executive and legislative branches Arizona, California, Florida, Kansas, Massachusetts, Michigan and New York statutes also cover appointed government officials and civil servants.

Restrictions on the Representation of Outside Interests

Several of the ethics statutes prohibit legislators and employees from accepting outside sources of payment for services they render the state The Illinois statute imposes this prohibition on legislators, and the laws of California, Florida, Louisiana, Massachusetts, and Texas impose such a prohibition on all state employees and officers.

Many of the conflict of interest laws proscribe the acceptance of outside employment which would impair the legislator's or employee's independence of judgment or threaten the divulgence of confidential

information The laws of California, Arizona, Florida, Massachusetts, Minnesota, New York, Texas and Washington contain language to this effect.

Several statutes, for example those of Florida, Minnesota and Texas, prohibit in broad terms the acceptance of outside employment by officers or employees.

Other statutes, notably those of Arizona, California, and Illinois, spell out the dimensions of this prohibition. The Arizona law prohibits public officers and employees from receiving or agreeing to receive compensation for services rendered in any case, proceeding, application, or other matter before the state, a state agency, or a political subdivision if the receipt of the compensation depends on their taking improper action or exercising improper influence.

California's law, however, expressly provides that a lawyer-legislator can practice before the Workmen's Compensation Appeals Board, the Corporations Commission or any state board or agency in connection with a pending court case

A New York statute prohibits those covered by it from appearing before a state agency for a fee which is contingent upon the agency's decision. California and Iowa laws forbid the receipt of compensation, either directly or through a partner, for appearing in a licensing or regulatory capacity in the particular case

Illinois bans lawyer-legislators from appearing in cases before the court of claims or the Industrial Commission in which the state is a respondent

Michigan law prohibits lawyer-legislators from appearing as lawyers in any nonadvisory or nonministerial proceeding before any state board, office or commission of the executive branch.

The State of New Jersey permits state officers and employees to engage in business activities with the state or to represent for financial gain any person whose interests are adverse to those of the state, if the officer or employee obtains written permission to engage in such activity from the head of his agency.

A number of conflict of interest statutes require that following the termination of his governmental connection an officer or employee refrain for a certain period from engaging in a transaction in which he participated in his official capacity The Hawaii, Iowa, Louisiana, Missouri, and New York statutes fix this period of abstinence at two years, the Massachusetts law at one.

Restrictions on Self-Serving Activities

Conflict of interest legislation in most states prohibits an officer or employee from being an agent for the government in any transaction with himself or in which he or a close family or business connection has a substantial financial interest (California, Florida, Hawaii, Kansas, Kentucky, Louisiana, Massachusetts, Missouri, New Mexico, Texas); or from having a private interest in any contract upon which he, as an official, must vote (California, Hawaii, Kentucky, Missouri, Texas).

Some states have considered it necessary to include in their conflict of interest legislation provisions against the soliciting, accepting or offering of bribes, or the peddling of influence or offers to peddle the

same. California, however, relies on its Penal Code provisions in this area.

Those subject to the Massachusetts act cannot have any private interest in a contract with the state. The Michigan law forbids private interests in state contracts only if the private interest would create the possibility of a conflict of interest.

A more frequent provision is that an officer or employee subject to ethics legislation is not to sell goods or services of more than a certain amount to the state (or local government, if such governments are covered by the statute) unless the sale is upon notice and competitive bidding. Arizona, Hawaii and New Mexico set this minimum value at $1,000 Iowa sets it at $500 and New York at $25

The laws of Florida, Hawaii, Iowa, New Jersey and New Mexico warn against accepting gifts, gratuities, or favors that might have an improper influence on the officer or agent who is the recipient.

Divulging or making improper use of confidential information is prohibited in Arizona, California, Florida, Hawaii, Louisiana, Illinois, Massachusetts, New Mexico, New York and Washington

Implementation and Enforcement

Frequently, ethics legislation requires that legislators and other officers and employees disclose their personal and private interests in pending legislation, and other economic interests and relationships likely to create conflicts of interest

Provisions of this general nature have been written into the legislation of Arizona, California, Florida, Hawaii, Illinois, Kansas, Missouri, New Jersey, New Mexico, New York, Texas and Washington

Ten states (California, Hawaii, Illinois, Iowa, Louisiana, Michigan, Minnesota, New Jersey, New York, and Washington) have established committees or commissions with functions and powers to investigate alleged violations of conflict of interest law

In states where more than one of these committees or commissions operates, one body usually concerns itself with the problems of officers and employees in the executive branch, the other with the conflict of interest problems of legislators and legislative employees

California's Legislative Ethics Committee has the power to investigate and make findings and recommendations concerning alleged violations of the Code of Ethics by Members of the Legislature.

Conflict of interest legislation provides punishment for violation of the law. The most frequently used sanctions are a fine, prison term, demotion, dismissal, or removal from office and permanent disqualification to hold other government offices

APPENDIX C

Survey of State Conflict of Interest Laws

GOVERNMENT OFFICIALS COVERED BY CONFLICT OF INTEREST LAWS

State	Citation	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	41-1291	x					
Arkansas	H 11		x	x			
California	1090						
	8920	x	x		x		
	3600	x	x	x	x		
Florida	112.311	x	x	x	x		
Georgia	S.74(4)						
	S.253	x	x	x	x		
Hawaii	84-1	x	x	x	x		
Illinois	127-601	x	x	x	x	x	Includes candidates
Iowa	68B 10	x	x	x	x		
Kansas	75 430	x	x	x			
Kentucky	H 472	x	x	x	x		
Louisiana	42-1101	x	x	x	x		
Maryland	C 19A						
Massachusetts	C.268A						
Michigan	4.1700	x	x	x	x	x	
Minnesota	3 88(4)	x			x		
Missouri	105 450	x	x	x	x		
Nebraska	L.75	x			x		
New Hampshire	C 45						
New Jersey	52 130-1	x	x	x	x		
New Mexico	8-12-1						
New York	31-46	x	x	x	x		
Oklahoma	H 981 LC	x					
Pennsylvania	H.1943						
South Dakota	H 524						
Tennessee	S 1323	x	x	x	x		
Washington	42.22 010		x	x	x		
West Virginia	CH 35	x	x	x	x	x	

STATES PROHIBITING THE ACQUISITION OF CONFLICTING INTERESTS

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas		x	x			
California	x	x	x	x		
Florida						
Georgia	x	x	x	x		
Hawaii		x	x	x		
Illinois	x					
Iowa						
Kansas						
Kentucky						
Louisiana						
Maryland						
Massachusetts						
Michigan						
Minnesota						
Missouri		x	x			
Nebraska						
New Hampshire						
New Jersey	x					
New Mexico		x	x	x		
New York						
Oklahoma						
Pennsylvania						
South Dakota						
Tennessee						
Washington						
West Virginia						

STATES PROHIBITING CONFLICTING EMPLOYMENT

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	x					
Arkansas		x	x			
California	x			x		
Florida	x	x	x	x		
Georgia	x	x	x	x		
Hawaii						
Illinois	x					
Iowa		x	x	x		
Kansas						
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		Includes former employees
Maryland			x			
Massachusetts	x	x	x	x	x	
Michigan						
Minnesota	x			x		
Missouri						
Nebraska	x			x		
New Hampshire						
New Jersey	x	x	x			
New Mexico						
New York	x	x	x	x		
Oklahoma	x	x	x	x		
Pennsylvania	x			x		Standards are directory only
South Dakota						
Tennessee						
Washington		x	x	x		
West Virginia						

STATES PROHIBITING RECEIPT OF GIFTS, SERVICES, LOANS, FAVORS, ETC.

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	x	x	x	x		
Arkansas						
California	x			x		
Florida	x	x	x	x		
Georgia	x	x	x	x		
Hawaii	x	x	x	x		
Illinois	x					
Iowa	x	x	x	x		
Kansas						
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		
Maryland						
Massachusetts	x	x	x	x	x	Post-employment limitation
Michigan						
Minnesota						
Missouri						
Nebraska	x			x		
New Hampshire						
New Jersey	x	x	x	x		
New Mexico	x	x	x	x		
New York	x	x	x	x		
Oklahoma	x	x	x	x		
Pennsylvania	x			x		
South Dakota						
Tennessee	x	x	x	x		
Washington		x	x	x		
West Virginia						

STATES REGULATING EXTRA OR ADDITIONAL COMPENSATION FROM NONSTATE SOURCES

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	x					
Arkansas		x	x			
California	x			x		
Florida	x	x	x	x		
Georgia						
Hawaii						
Illinois	x					
Iowa		x	x	x		
Kansas						
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		
Maryland						
Massachusetts	x	x	x	x	x	
Michigan						
Minnesota	x			x		
Missouri						
Nebraska	x			x		
New Hampshire						
New Jersey						
New Mexico						
New York	x	x	x	x		
Oklahoma	x	x	x	x		
Pennsylvania	x			x		
South Dakota						
Tennessee						
Washington		x	x	x		
West Virginia						

STATES PROHIBITING DISCLOSURE OR ADVERSE USE OF CONFIDENTIAL INFORMATION

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	x					
Arkansas	x	x	x	x		
California	x			x		
Florida	x	x	x	x		
Georgia	x	x	x	x		
Hawaii	x	x	x	x		
Illinois	x					
Iowa						
Kansas						
Kentucky	x	x	x	x		
Louisiana						
Maryland						
Massachusetts	x	x	x	x	x	
Michigan						
Minnesota						
Missouri						
Nebraska	x			x		
New Hampshire						
New Jersey						
New Mexico						
New York						
Oklahoma	x	x	x	x		
Pennsylvania	x			x		
South Dakota						
Tennessee						
Washington						
West Virginia						

STATES REGULATING TRANSACTIONS WITH OR ON BEHALF OF THE STATE OR EMPLOYER AGENCY

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona	x					
Arkansas		x	x			
California	x	x				
Florida		x	x			
Georgia	x	x	x	x		Post-employment limitation, includes former employees
Hawaii	x	x	x	x		
Illinois	x					
Iowa		x	x			
Kansas	x	x	x	x		
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		Post-employment limitation, exemption available
Maryland		x	x			
Massachusetts	x	x	x	x	x	
Michigan	x	x	x	x	x	
Minnesota						
Missouri		x	x			
Nebraska						
New Hampshire		x				
New Jersey	x	x	x	x		
New Mexico	x	x	x	x		
New York	x	x	x	x		Post-employment limitation
Oklahoma	x	x	x	x		
Pennsylvania	x			x		
South Dakota						
Tennessee	x	x	x	x		
Washington		x	x	x		
West Virginia						

STATES REGULATING, ASSISTING OR REPRESENTING OTHERS IN TRANSACTIONS WITH THE STATE

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California	x			x		
Florida						
Georgia	x	x	x	x		
Hawaii		x	x	x		Post-employment limitation
Illinois	x					
Iowa		x	x	x		Includes former employees
Kansas	x	x	x	x		Exemption available
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		
Maryland						
Massachusetts	x	x	x	x		
Michigan	x	x	x	x	x	
Minnesota						
Missouri		x	x			
Nebraska						
New Hampshire						
New Jersey	x	x	x	x		
New Mexico	x	x	x			Post-employment limitation
New York	x	x	x	x		Post-employment limitation
Oklahoma						
Pennsylvania	x			x		
South Dakota		x	x	x		
Tennessee	x	x	x	x		Exemption available
Washington						
West Virginia						

STATES REGULATING PRIVATE SALES TO OR PURCHASES FROM FIRMS REGULATED/ LICENSED BY THE STATE

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas		x	x			
California						
Florida		x	x			
Georgia						
Hawaii						
Illinois						
Iowa		x	x			
Kansas						
Kentucky	x	x	x	x		
Louisiana						
Maryland						
Massachusetts						
Michigan						
Minnesota						
Missouri		x	x			
Nebraska						
New Hampshire						
New Jersey						
New Mexico						
New York	x	x	x	x		
Oklahoma						
Pennsylvania						
South Dakota						
Tennessee						
Washington						
West Virginia						

STATES REGULATING PERSONAL INTEREST IN BUSINESS REGULATED/LICENSED BY THE STATE

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas	x	x	x	x		
California						
Florida	x	x	x	x		
Georgia	x	x	x	x		
Hawaii	x	x	x	x		
Illinois						
Iowa						
Kansas						
Kentucky	x	x	x	x		
Louisiana						
Maryland						
Massachusetts						
Michigan						
Minnesota						
Missouri						
Nebraska						
New Hampshire						
New Jersey						
New Mexico						
New York	x	x	x	x		
Oklahoma						
Pennsylvania						
South Dakota						
Tennessee						
Washington						
West Virginia						

STATES REGULATING APPEARANCE OF A LAWYER-LEGISLATOR BEFORE A STATE AGENCY

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California	x			x		
Florida						
Georgia	x	x	x	x		
Hawaii		x	x	x		
Illinois	x					
Iowa		x	x			Post-employment limitation
Kansas	x	x	x	x		Exemption available
Kentucky						
Louisiana	x	x	x	x		
Maryland						
Massachusetts	x	x	x	x		
Michigan						
Minnesota						
Missouri		x	x			Post-employment limitation
Nebraska						
New Hampshire						
New Jersey						
New Mexico						
New York	x	x	x	x		Post-employment limitation
Oklahoma						
Pennsylvania						
South Dakota		x	x	x		
Tennessee	x	x	x	x		
Washington		x	x	x		Post-employment limitation
West Virginia						

STATES REQUIRING PUBLIC DISCLOSURE OF FINANCIAL INTERESTS

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California	x	x	x	x	x	
Florida						
Georgia						Required only if conflict exists
Hawaii	x		x			Confidental, required only if conflict exists
Illinois	x	x			x	Includes candidates
Iowa						
Kansas	x	x	x			Required only if conflict exists
Kentucky						
Louisiana						
Maryland						
Massachusetts						
Michigan						
Minnesota						
Missouri	x	x				Required only if conflict exists
Nebraska	x			x		
New Hampshire						
New Jersey						
New Mexico		x	x	x		Required only if conflict exists
New York	x	x	x	x		
Oklahoma						
Pennsylvania	x					Required only if conflict exists
South Dakota						
Tennessee						
Washington		x	x	x		Confidental
West Virginia	x	x	x	x	x	

STATES REQUIRING DISQUALIFICATION/ NONPARTICIPATION IN OFFICIAL ACTION

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California						
Florida						
Georgia						
Hawaii						
Illinois						
Iowa						
Kansas						
Kentucky	x	x	x	x		
Louisiana	x	x	x	x		
Maryland						
Massachusetts			x	x		
Michigan						
Minnesota	x			x		
Missouri						
Nebraska						
New Hampshire						
New Jersey						
New Mexico		x	x	x		
New York						
Oklahoma	x	x	x	x		
Pennsylvania	x					
South Dakota						
Tennessee						
Washington						
West Virginia						

STATES ALLOWING AGENCIES TO PROMULGATE CODE OF ETHICS

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California		x	x			
Florida						
Georgia						
Hawaii						
Illinois						
Iowa						
Kansas						
Kentucky						
Louisiana						
Maryland		x	x			
Massachusetts						
Michigan						
Minnesota						
Missouri		x	x			
Nebraska						
New Hampshire		x	x			
New Jersey		x	x			
New Mexico						
New York		x	x			
Oklahoma						
Pennsylvania						
South Dakota		x	x			
Tennessee						
Washington						
West Virginia						

STATES REQUIRING DIVESTMENT OF CONFLICTING INTERESTS

State	Legislators	Executive officials	Executive employees	Legislative employees	Judicial	Comments
Arizona						
Arkansas						
California						
Florida						
Georgia						
Hawaii						
Illinois						
Iowa						
Kansas						
Kentucky						
Louisiana						
Maryland						
Massachusetts			x	x		
Michigan						
Minnesota						
Missouri						
Nebraska						
New Hampshire						
New Jersey						
New Mexico						
New York						
Oklahoma						
Pennsylvania						
South Dakota						
Tennessee						
Washington						
West Virginia						

APPENDIX D

Opinion of the Attorney General Relating to the 1969 Disclosure Law

OFFICE OF THE ATTORNEY GENERAL
State of California

THOMAS C LYNCH
Attorney General

OPINION of THOMAS C LYNCH *Attorney General* GEORGE J. ROTH *Deputy Attorney General*	No 69/229 FEB 5 1970

THE HONORABLE ADRIAN KUYPER, COUNTY COUNSEL OF ORANGE COUNTY, ON BEHALF OF ORANGE COUNTY AND THE CALIFORNIA DISTRICT ATTORNEYS AND COUNTY COUNSELS ASSOCIATION, JOHN D MAHARG, COUNTY COUNSEL OF LOS ANGELES COUNTY; RICHARD M RAMSEY, COUNTY COUNSEL OF SONOMA COUNTY, RALPH N KLEPS, DIRECTOR, ADMINISTRATIVE OFFICE OF THE COURTS; NORMAN L EPSTEIN, VICE CHANCELLOR AND GENERAL COUNSEL OF THE CALIFORNIA STATE COLLEGES, W H NICHOLS, GENERAL MANAGER, LOS ANGELES MEMORIAL COLISEUM CORPORATION, THE BOARD OF DIRECTORS OF THE CALIFORNIA MUSEUM OF SCIENCE AND INDUSTRY, along with other officers and legal counsel for many public agencies in the state, have asked our opinion on numerous questions concerning the interpretation of the recently enacted disclosure of financial interest law, Title 1, Division 4 5, Government Code, sections 3600 et seq (Stats 1969, ch 1512).

The individual problems posed for our analysis collectively constitute three major questions

1 Is Chapter 1512 constitutionally valid?
2. Who must file the required financial disclosure statement?
3 What information must be disclosed in the statement?

The conclusions are:

1. Chapter 1512 is constitutionally valid It is not so vague as to be void. It properly defines a felony and a misdemeanor It does not violate any right against self-incrimination It is possible, however, that certain specific language of Chapter 1512 might be set aside by the courts on grounds of unconstitutionality

2 Disclosure of financial interest statements must be filed by all "public officers". "Public officers" means all elected state and local officials and certain high-ranking, policy controlling, appointed state and local officials and employees in each branch of government: executive, legislative and judicial

3 The disclosure of financial interest statements which must be filed should show the nature and extent of each investment in real property, corporate stock, or financial interest in a business entity or trust, which

is subject to regulation by a California public agency, which exceeds $10,000 in value, and which is held individually or collectively by a "public officer", his spouse, or a minor child of either of them.

ANALYSIS

Introduction

Chapter 1512, Statutes of 1969, is essentially a disclosure statute. Generally, it provides for annual reporting by certain state and local officials of their private financial holdings exceeding $10,000 in any investment in real property, corporate stock, or financial interest in any business or trust and requires specific identification of all political campaign contributions exceeding $500 Assem Comm Rep. on A B. 325, April 23, 1969, p. 3

The Report was issued by the Assembly Committee on Governmental Organization the day the bill passed without further amendment. That report, and the extensive and intensive declaration of legislative intent set forth in section 3600, set the interpretative tone for this legislation.

The opening paragraph of the Report reads·

> "Conflict of Interest has been described as a 'luxury issue' raised when the 'grosser larcenies of government have been reduced to tolerable limits.' Prohibitions against the blatant abuses of a public position (i e. bribery, embezzlement, extortion, etc.) arose very early in the common law but no provision was made for minor abuses of the public trust. *It is to these relatively minor departures that current conflict of interest laws and codes of ethics are directed* " (Emphasis added.) Assem. Comm Rep , *supra,* p. 1.

The disclosure reporting requirements of Chapter 1512 are based upon legislative findings that·

> "(a) The people have a right to expect from their elected and appointed representatives at all levels of government assurances of the utmost in integrity, honesty and fairness in their dealings; (b) The people further have a right to be assured to the fullest extent possible that the private financial dealings of their governmental representatives, and of candidates for those offices, present no conflict of interest between the public trust and private gain, and (c) The representative form of government is founded upon a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people." § 3600.[1]

Section 3600, subdivision (c) requires a liberal interpretation of Chapter 1512 to assure full protection of the public interest. Section 3607, although not as artfully phrased as could be desired, means that whenever another provision of law also requires disclosure of financial interests by a public officer, the legislation which requires the greatest disclosure is applicable

Although disclosure requirements may exist in other provisions of law, however, this does not necessarily mean that they are comparable to the disclosure requirements of the instant legislation because of sec-

[1] All section references are to the Government Code unless otherwise indicated.

tion 3607 For example, analysis of section 8920, subdivision (a), and Code of Civil Procedure section 170, shows that these latter sections are not particularly relevant under Section 3607 for the former is a conflict of interest statute prohibiting any judge or justice to hold certain financial interests and the latter is applicable to disclosure of interest only on a case by case basis.

Constitutionality of Chapter 1512

One of the requirements of constitutional due process in any penal statute is that the language used must be sufficiently clear to alert the citizenry to conduct required or proscribed.

In *Conally* v *General Const Co*, 269 U S 385, 391 (1926) the court pointed out:

> "That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."

"Void-for-vagueness" cases can be found which go either way, depending upon the particular facts presented to the court. See, for example, cases upholding constitutionality such as *Morrison* v *State Board of Education*, 1 Cal 3rd 214 (1969) ("unprofessional"), "moral turpitude", "immoral"), *People* v *Gann*, 259 Cal App 2d 706 (1968) ("crime against nature"); *People* v. *Rehman*, 253 Cal App 2d 119 (1967) ("act injurious to the public health"); *People* v. *Grubb*, 63 Cal.2d 614 (1965) ("billy" club), *People* v *Beaugez*, 232 Cal App 2d 650 (1965) (placing child in "a position that its life or limb may be endangered or its health likely to be injured"); *People* v. *Darby*, 114 Cal App 2d 412 (1952) ("interest" and "contract") For cases holding statutes unconstitutional, see *Lanzetta* v *New Jersey*, 306 U S 451 (1939) ("gangster", "gang"); *People* v *Belous*, 71 A.C. 996 (1969) (abortion "necessary to preserve" life); *In re Davis*, 242 Cal App.2d 645 (1966) ("act outraging the public decency"); *Katzev* v. *County of Los Angeles*, 52 Cal 2d 360 (1959) ("crime comic books").

Consideration must also be given to the question of possible unconstitutional classification In *Katzev* v *County of Los Angeles, supra*, 52 Cal 2d 360, 369 (1959), the court said·

> "Where the legislative classification is unreasonable, the courts will invalidate the law In *Franchise Motor Freight Assn.* v. *Seavey*, 196 Cal 77, 81 [2] [235 P 1000], we said that 'a statute makes an improper and unlawful discrimination if it confers particular privileges upon a class arbitrarily selected from a larger number of persons all of whom stand in the same relation to the privileges granted and between whom and the persons not so favored no reasonable distinction or substantial difference can be found justifying the inclusion of one and the exclusion of the other (Citing cases).' "

Chapter 1512, however, does not arbitrarily select a smaller class out of a larger class Rather, the chapter covers all public officers of every

public agency or public corporation in the entire state, it additionally covers only certain high officials having civil service or appointive status in those political entities, who serve directly under such public officers. And a reasonable justification can be found to include these high officials and exclude other civil servants §§ 3601, 3605.

While some of the language of Chapter 1512 might initially appear ambiguous, when such language is directed toward the purposes set forth in Section 3600 so that it is referred to the announced legislative objective, much of this apparent ambiguity disappears Although, therefore, it is possible that certain language used in Chapter 1512 may when applied in a specific case be considered unconstitutionally vague, we believe that in the main the statute is constitutional, and that what may appear to be initially ambiguous will be held by the courts to be sufficiently definite when interpreted in light of the clear legislative objective expressed in Section 3600

The penalty provisions are found in Sections 3704 and 3754, which read the same

> "Any person who violates a provision of this chapter is guilty of a misdemeanor, and any person who violates a provision of this chapter with knowledge of the unlawfulness of such act or omission is guilty of a felony "

Although this is unusual language for a penal statute, we believe it constitutionally defines a crime The language of the first clause is commonly found in misdemeanor statutes For example, see Penal Code sections 303, 303a, 315 and 367d Under the first clause, negligent failure to file is a misdemeanor The knowledge requirement of the second clause means failure to file willfully and with specific intent not to do so

While it is theoretically possible that compliance with the filing requirements may alert prosecution authorities to violations of other laws because of disclosed illegal gains, this does not result in a violation of the constitutional protection against self-incrimination The disclosure requirements of this statute are comparable to the requirements for filing tax returns These latter periodic reports have successfully withstood attack against raised grounds of violation of constitutional rights against self incrimination See concurring opinion of Mr Justice Brennan in *Marchetti* v *United States*, 390 U S 39, 72 (1968), reiterating the principles expressed in *United States* v. *Sullivan*, 274 U S 259 (1927)

We conclude that there is no constitutional objection to the reporting requirements of Chapter 1512.

Who Must File

Annually, prior to April 15, every public officer is required to file for public record a statement showing the nature and extent of each investment in real property, corporate stock or financial interest in a business entity or trust subject to regulation by a California public agency, which exceeds $10,000 in value, and which is held individually or collectively by a "public officer", his spouse, or a minor child of either of them §§ 3700, 3604.

Although possibly somewhat obtuse because of the punctuation, the clear intent of section 3701 is that a person required to make a declaration who has done so in the preceding year need not relist all of his holdings over $10,000 in value but may update his original statement to conform to his financial situation at the latter time The definitions and applications of Chapter 1512 to section 3700 must be similarly applied to section 3701 Under the language of section 3701, the individual may, if he prefers, file an entire and complete declaration each year if he does not wish to take advantage of the short method allowed.

It will be noted that only disclosure of holdings on the date the statement is filed need be made. Acquisitions and disposals in between statement filings need not be disclosed

Since section 3700 requires a disclosure filing showing "the nature and extent of his investments . . *if* such investment is in excess of ten thousand dollars . " (emphasis added), we believe that no filing is necessary so long as any particular investment does not exceed $10,000 in value

The same type of statement as that required by section 3700 must be filed by "[e]ach candidate . . for state or local public office, within 10 days after he files his declaration of candidacy or declaration of acceptance . . . ." § 3702 Since section 3702 specifies "[e]ach candidate", incumbents running for reelection, depending on the dates involved, may have to file two section 3700 statements in one year. Candidates and their campaign committees must also file two campaign contribution statements, one between 20 and 25 days prior to the election and a cumulative one between 30 and 35 days after the election. §§ 3750, 3751 Individuals holding *ex officio* offices who are required to file by virtue of their primary office need not file a statement for the other office

Candidates for and elected officials holding state offices, judges of the superior court, all officers to be voted for in more than one county, and all other state officials and employees required to file statements shall file with the Secretary of State § 3703, (Elec Code § 6550, subd (a)). "[A]ll officers to be voted for wholly within one county [shall file] in the office of the county clerk of that county" (Elec Code § 6550, subd (b)), and "[o]ther local officials and employees required to file . . . shall file with the county clerk in the county in which they reside" (§ 3703). The cumulative campaign statements required by section 3750 are filed in the same places as set forth above. § 3750.

Other statutory provisions, such as Elections Code section 22840 requiring nomination papers in certain city elections to be filed with the city clerk, and Education Code section 1114 requiring similar papers in school district elections to be filed with the county superintendent of schools, are not applicable to the financial disclosure statements required by sections 3700–3703 The use of the words "shall file" in these latter sections requires that all local candidates and elected officials who are required to file do so with the proper county clerk

The term "public officer" is defined in section 3605

> "As used in this division, 'public officer' means a Member of the Legislature, a Secretary of the Governor, the Chief Clerk and the Sergeant at Arms of the Assembly, the Secretary and the Ser-

geant at Arms of the Senate, an administrative aide or committee consultant of the Legislature, a constitutional officer, and any other officer of a public agency; and includes civil servants in a public agency who are classified as career executives, and the appointive or civil servant employee of the highest class or grade in each department, bureau, division, or other administrative subdivision of a public agency, as defined in regulations adopted by the public agency, but does not include other civil servants in a public agency."

"Public agency" is defined in section 3601:

"As used in this division, the term 'public agency' means the state, a city, a county, a city and county, or a district, or any subdivision, department, board, commission, body or agency of the foregoing; and includes any public corporation or public authority. The term 'public agency' does not include a commission or board the functions of which are purely advisory in nature"

These two sections, 3605 and 3601, when read in light of section 3600 phrases such as "elected and appointed representatives at all levels of government", "those entrusted with the offices of government", "public confidence in government at all levels"; when read together with the definition of "candidate" in section 3753, subdivision (d); and when "construed liberally" as required by section 3600, indicate a strong legislative intent to require the filing of financial disclosure and campaign contribution statements by affected officials in each of the three constitutional branches of government: executive, legislative and judicial

Except for members of "a commission or board the functions of which are purely advisory in nature", the filing requirements appear to be generally all-encompassing. Thus, purely by way of illustration, and also to answer specific questions submitted to us, we believe that financial disclosure statements must be filed by the Trustees of the California State Colleges, members of the judiciary at all levels from the Supreme Court to justices of the peace, the Administrative Director of the Courts, the Clerk of the Supreme Court and of the Court of Appeal in each appellate district, the Board of Governors of the State Bar, a State Bar member of the Judicial Council who neither is a legislator nor a member of the State Bar Board of Governors, members of entities created under joint exercise of powers legislation such as the Los Angeles Memorial Coliseum Commission, officers of a nonprofit corporation formed to operate a county agricultural fair as agent of the board of supervisors, and the Board of Directors of the California Museum of Science and Industry. Members of the Commission on Judicial Qualifications who are neither judges nor members of the Board of Governors of the State Bar are not required to file as that Commission is "purely advisory in nature"; and even though it conducts investigations and hears charges against judges, its sole function is to make recommendations to the Supreme Court. Const. art. VI, § 18, subds. (a), (b), (c). Members of a board of directors of a nonprofit corporation formed for the purpose of issuing revenue bonds to finance the construction of public facilities do not have to file. Although corporations of this type are used in various kinds of leaseback and similar governmental financing

methods, are organized for public benefit and are quasi-public in nature, they must be considered nongovernmental entities in order to sustain the basis for the leaseback financing theory, and absent unusual considerations, their officers would not be included within the filing requirements

On the assumption that retired judges serving under assignment of the Chairman of the Judicial Council do so only on a temporary basis for a limited time and temporary judges are appointed to serve by stipulation on a unit case basis, we conclude that such individuals are not required to file a disclosure statement There may be individual instances, however, where the length of service during the period preceding the filing date is so great that a court might conclude otherwise

To the extent that an office holder has authority to appoint someone in the nature of a chief deputy, such individual would be required to file Other state or local appointive or civil service employees may or may not have to file depending upon their position in the particular structure of the public entity Although organizational chart titles may vary as between different political entities, the Legislature apparently intended to include among the persons who must file individuals who because of their particular job have responsibility and authority for carrying out the policy of the organization Generally, such individuals are in charge of a major budgetary section and supervise other employees to the extent of accepting, altering or rejecting the decisions of such employees

The entity does not have to create special regulations to inaugurate disclosure filing It may not just "draw a line" and say that each employee above the line must file, nor may it pass regulations requiring particular employees to file. Otherwise there might be an unlawful delegation to a local entity of the power to declare an act a felony The "regulations" referred to in section 3605 are the existing statutes, ordinances and regulations in effect at any given time which create the organizational structure of the political entity. Regardless of terminology, super-agency secretaries, department heads, bureau chiefs, regional managers, division managers, and branch office supervisors, operating either laterally across various functions of the political entity or vertically within a specialized function, appear to be the policy controlling individuals at whom disclosure is directed. Thus, the entity does not decide which officials and employees are required to file, rather, it decides on its organizational structure (or the structure is set by statute, ordinance, or regulation), and under section 3605 certain positions within the organizational structure are of such a nature that the holders of those positions must file The filing requirements therefore come not from the political entity but from the statute under instant consideration Accordingly, all county department heads are included without further regulation by the board of supervisors, as are county superintendents of schools without further regulation by the school board Similarly, the various department chairmen in each state college and university must also file.

Once the "lowest" level of filing is determined from the organizational structure, it is almost axiomatic that all individuals above that level are required to file a disclosure statement

Career executive positions referred to in section 3605 are "positions of a high administrative and policy influencing character" held by state employees as described in sections 19220–19222

In *Millholen* v *Riley*, 211 Cal 29, 32 (1930), statutory language concerning "contracts entered into by any state officer, board, commission, department, or bureau " was held applicable only to the executive department of state government However, the case does not stand for the principle that every time such language appears it is to be so limited In *Millholen*, the court was careful to point out that its conclusion in that case was reached only after "[t]aking these provisions in the context where found, coupled with the objects and purposes for which the enactments were made as disclosed in the other provisions of the same title " The extensive declaration of legislative intent in section 3600 abrogates any conclusion that the disclosure requirements under discussion are limited only to the executive branch and exclude the judiciary

In *Wallace* v *Superior Court*, 141 Cal App 2d 771 (1956), a statutory county residence requirement for eligibility for election to the office of superior court judge was held unconstitutional on the ground that it amounted to an additional qualification for the office The court analyzed the constitutional convention debates and noted that a residence qualification was proposed but never adopted. It concluded that the exclusion of the requirement was intentional and held that the Legislature was powerless to add or detract from the qualifications set forth in the Constitution *Wallace*, *supra* at p 781.

In our opinion, the requirements of section 3700 that all public officers must file a disclosure of financial interest statement, and of section 3750 that each candidate must file cumulative campaign contribution statements, do not amount to additional qualifications for any office Failure to file does not affect the holding of the office except indirectly If because of the failure to file the office holder is eventually convicted of a felony, removal from office may occur, but removal is solely because of the conviction, and the nature of the felony is unimportant. The creation of this new felony for failure to file in sections 3704 and 3754 does not in any way amount to a new qualification for holding any office

In summation of this particular question, generally all elected officials of each branch of government, their chief deputies, if any, and all other persons who, because of existing statutes, ordinances, regulations, salary classification plans, etc , are in policy making and policy controlling governmental positions, except members of purely advisory boards and commissions, must file the required disclosure statement in the place and at the time indicated in the legislation There undoubtedly are some individuals whose filing requirements are borderline situations, however, these will necessarily have to be determined on a case-by-case basis depending on the specific facts applicable in each instance

What Must Be Disclosed

The disclosure requirements are set forth in section 3700

" [E]very public officer shall file, as a public record, a statement describing the nature and extent of his investments, including the ownership of shares in any corporation or the ownership of a

financial interest in any business entity, which is subject to regulation by any state or local public agency, if such investment is in excess of ten thousand dollars ($10,000) in value at the time of the statement"

Disclosure requirements apply to shares of stock, a financial interest or investment in real property or in any business entity, partnership, joint venture, sole proprietorship, trust or other corporate or noncorporate enterprise (except "a charitable corporation which qualifies for exemption from the corporation tax under Section 23701d of the Revenue and Taxation Code") §§ 3602, 3606, 3700 They include real property held for income or gain (§ 3603); shares and investments owned by either spouse or by a minor child thereof (§ 3604); shares or investments owned by a corporation in which the ownership of the corporation by either spouse or a minor child thereof exceeds 25% (§ 3604); shares or investments owned by a revocable trust under which either spouse or a minor child thereof is a trustor (§ 3604); shares or investments owned by a trust under which either spouse or a minor child thereof is a beneficiary (§ 3604); and shares or investments owned by a trust under which either spouse or a minor child thereof holds a reversionary interest (§ 3604)

The use of the words "if such investment is in excess of" in section 3700 indicates that disclosure is not required unless the *individual* investment exceeds the $10,000 minimum set forth The language in the Assembly Committee Report on Assembly Bill 325 also seems to confirm this viewpoint:

> " the bill provides primarily for annual disclosure (or reporting) of private financial interests which exceed $10,000 in any business entity . "

Several holdings may constitute one investment depending on the particular factual situation existent This will necessarily have to be decided on a case by case basis Additionally, if the official required to file, his spouse and/or a minor child of either collectively have more than $10,000 invested in an individual investment, disclosure is required

The investment must be subject to regulation by *any* California state or local agency Disclosure is required even if the "regulation" may be by an entity with which the declarant is not affiliated A public officer should disclose the nature and extent of his investment in excess of $10,000 in any foreign trust or business entity that directly or through a subsidiary is subject to regulation by any California state or local agency because of its investments in real property or finance or business activities in this state Under the liberal interpretation requirements of section 3600, subdivision (c), the word "regulation" in section 3700 is not limited to activities by commonly recognized regulatory agencies such as the Public Utilities Commission, Department of Alcoholic Beverage Control and the like but is all inclusive and covers every state or local governmental entity which may regulate the investment However, the investment does not have to be actually regulated at the time the disclosure statement is filed Assume, for example, a situation where a public officer acquires a major investment shortly after he has filed his annual disclosure statement Then, during

the year his own governmental entity proposes to regulate the land or the business in which he has invested Through his efforts, the statute, ordinance or regulation is adopted or defeated If he does not have to disclose his investment on his next annual disclosure statement, the public would probably never find out his motives in approving or opposing the regulation Limitation of the words "which is subject to regulation" to investments actually being regulated at disclosure filing time would tend to erode the purpose of Chapter 1512 As a practical matter, therefore, since almost all investments are subject to regulation by some state or local governmental agency, almost all investments in which the $10,000 minimum valuation is exceeded will have to be disclosed

We believe that the language in section 3700, requiring the filing of "a statement describing the nature and extent of his investments . . if such investment is in excess of $10,000 in value" means that a public officer must describe the asset sufficiently to identify it, state the extent of his holding in the asset in percentage, shares or dollars and give the total market value rather than his equity interest in the asset When shares of stock are traded on a recognized exchange, it would be sufficient to show the number of shares and market value on date of filing In the case of an asset with a market value which is not readily ascertainable, the burden is upon the public officer to state an approximate value which is as reasonably accurate as possible Tax assessments are customarily made at full cash value See *De Luz Homes Inc* v *San Diego County*, 45 Cal 2d 546 (1955) Equity values may be greatly increased by action taken by a public entity Value may be determined by any customarily used and realistic method which will show an accurate picture that can reasonably be substantiated in case of challenge

Generally, in answer to questions submitted to us, the term "ownership of shares" in section 3700 includes shares of stock, mutual fund shares, convertible bonds, stock rights, warrants, stock options, and all other common forms of investments in securities recognized as such by persons cognizant of stock market and over-the-counter transactions; any type of present or future interest in real property should be disclosed, contracts to purchase real property are covered; options to purchase real property are unilateral contracts subject to conditions which are removed by acceptance and are close enough to contracts to purchase real property to be included under the liberal interpretation requirements of section 3600, guarantee stock in a savings and loan association is included within the term "investment" in section 3700 But customary debtor-creditor relationships such as commercial or savings bank deposits are not investments unless they amount to a financial ownership interest, the cash surrender value of a life insurance policy in a mutual insurance exchange does not have to be disclosed; savings and loan shares and investment certificates are similar to bank deposits in many respects and, unless they amount to a financial ownership interest, are not within the term "investment" used in section 3700, ordinarily, salary received from a business would be exempt.

Each illustration in the foregoing paragraph must necessarily be qualified by its application to the specific facts in any individual case

For example, if the owner of an insurance policy in a mutual company is one of the management who customarily votes the proxies of other policy holders so as to control the company, he might have to make disclosure Similarly, the holder of shares in a mutual savings and loan association might likewise hold proxies giving him management control and also might be required to make disclosure On the other hand, there are still a few savings and loan associations left in the state where ownership of shares actually amounts to a managerial interest and is specifically an investment

Whether under section 3603 "a home or property [is] used primarily for personal or recreational purposes" is likewise dependent upon the facts in each case One factor would be how the asset was treated on the official's income tax return.

Conclusion

As previously indicated, we believe the legislation is constitutionally valid Who must make disclosure is relatively easy to determine by looking at the statutes, ordinances, budgets, salary classification plans, etc , that provide for the organizational structure of a particular governmental entity What must be disclosed is in most cases reasonably defined by the statute On the other hand, there undoubtedly will be borderline situations where a court may say that the language is too vague when applied to that particular case.

APPENDIX E

Draft Legislation

DRAFT LEGISLATION
A.B. 430

An act to add Division 4.5 (commencing with Section 3600) to Title 1 of, and to repeal Article 4 (commencing with Section 1090) of Chapter 1, Division 4, Title 1 of, Chapter 4 5 (commencing with Section 1100) of Chapter 1, Division 4, Title 1 of, Article 4 6 (commencing with Section 1120) of Chapter 1, Division 4, Title 1 of, Division 4 5 (commencing with Section 3600) of Title 1 of, Article 2 (commencing with Section 8920) of Chapter 1, Division 2, Title 2 of, and Article 3 (commencing with Section 8940) of Chapter 1, Division 2, Title 2 of, the Government Code, relating to conflicts of interest and making an appropriation therefor.

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

SECTION 1 Article 4 (commencing with Section 1090) of Chapter 1, Division 4, Title 1 of the Government Code is repealed

LEGISLATIVE COUNSEL S DIGEST

AB 430, as introduced, Monagan (G.O). Conflict of interest.

Adds Div 4 5 (commencing with Sec 3600) to Title 1 of, repeals Art. 4 (commencing with Section 1090) of Ch 1, Div 4, Title 1 of, Ch 4 5 (commencing with Sec 1100) of Ch 1, Div 4, Title 1 of, Art. 4 6 (commencing with Sec 1120) of Ch 1, Div 4, Title 1 of, Div. 4 5 (commencing with Sec 3600) of Title 1 of, Art 2 (commencing with Sec. 8920) of Ch 1, Div 2, Title 2 of, and Art 3 (commencing with Sec 8940) of Ch 1, Div 2, Title 2 of Gov C.

Prohibits certain public officers and employees from being financially interested in any contract negotiated by them in their official capacity

Requires certain public officers and candidates for public office to disclose, prior to April 30th of each year, their financial interests in excess of $1,000 fair market value. Requires certain public employees to disclose, prior to April 30th of each year, their financial interests

SEC 2 Article 4 5 (commencing with Section 1100) of Chapter 1, Division 4, Title 1 of the Government Code is repealed.

SEC 3 Article 4 6 (commencing with Section 1120) of Chapter 1, Division 4, Title 1 of the Government Code is repealed.

SEC 4 Division 4 5 (commencing with Section 3600) of Title 1 of the Government Code is repealed

SEC 5 Division 4 5 (commencing with Section 3600) is added to Title 1 of the Government Code, to read

DIVISION 4 5 CONFLICTS OF INTEREST

CHAPTER 1 GENERAL PROVISIONS

3600 The Legislature finds and declares (a) That no responsibility of government is more fundamental than the responsibility of maintaining the highest standards of ethical behavior by those who conduct the public business; (b) That the people have a right to expect adherence by those who conduct the public business to the principle that all officials must act with the utmost integrity, absolute impartiality and loyalty to the public interest; (c) That whereas the basis of effec-

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in business entities regulated by the agency, department, board, committee or commission of which they are employees

Requires certain candidates for public office and political committees supporting such candidates to disclose sources and amount of political contributions which total more than $100.

Defines terms used Directs Secretary of State to prepare standard reporting forms for such financial disclosure statements

Deletes county central committee candidates from definition of candidate for purpose of political contributions and financial disclosure provisions.

Makes certain provisions of the Legislators' Code of Ethics, formerly applicable only to Legislators, and their staffs, state elective or appointive officers, judges and justices, applicable to state employees and members of state boards and commissions as well

Prohibits person who has served as an officer or employee of a state agency from appearing before such agency within a period of two years after the termination of his employment with the agency.

Provides new penalties for the violation of conflict of interest provisions.

Repeals provisions creating the Joint Legislative Ethics Committee Creates the Executive and Legislative Commissions on Ethics and Conflict of Interest and prescribes their membership, powers, duties, and functions States legislative intent to provide for the support of the Legislative Committee on Ethics and Conflict of Interest from the Contingent Funds of the Assembly and Senate Appropriates $50,000 to carry out the purposes of the Executive Commission on Ethics and Conflict of Interest.

Vote—¾, Appropriation—Yes; Fiscal Committee—Yes.

tive democratic government is public confidence, that confidence is endangered when ethical standards falter or appear to falter

To these ends, the Legislature enacts this division and affirms its intent to sustain public confidence in government at all levels by assuring, to the extent possible, the impartiality and honesty of officials in all governmental transactions and decisions Further, the Legislature finds and declares that the laws and regulations governing ethics in government have not been adequate to the changed role of government at all levels, or to the changing conditions of our society

CHAPTER 2. PROHIBITIONS APPLICABLE TO SPECIFIED OFFICERS

3620 Members of the Legislature, state, county, special district, judicial district, and city officers or employees shall not be financially interested in any contract made or negotiated by them in their official capacity, or by any body or board of which they are members Nor shall state, county, special district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity

3621 No officer or employee of the state nor any Member of the Legislature shall accept any commission for the placement of insurance on behalf of the state

3622 (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which he is a member within the meaning of this article if he has only a remote interest in the contract and if the fact of such interest is disclosed to the body or board of which he is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest

(b) As used in this article "remote interest" means:

(1) That of a nonsalaried officer of a nonprofit corporation;

(2) That of an employee or agent of the contracting party, if such contracting party has 10 or more other employees and if the officer was an employee or agent of said contracting party for at least three years prior to his initially accepting his office

For the purposes of this subdivision, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this subdivision even though such contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by such officer Time of employment in such case shall

be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before such transfer or change in organization For the purposes of this subdivision, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such contracting party

(3) That of a parent in the earnings of his minor child for personal services,

(4) That of a landlord or tenant of the contracting party,

(5) That of an attorney of the contracting party, or

(6) That of a member of a nonprofit corporation formed under the Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(7) That of a supplier of goods or services when such goods or services had been supplied to the contracting party by the officer for at least five years prior to his election or appointment to office.

(8) That of a person subject to the provisions of Section 3620 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(c) The provisions of this section shall not be applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his interest in a contract pursuant to this section shall be punishable as provided in Section 3630 Such violation shall not void the contract however, unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed

3623 The prohibition against an interest in contracts provided by this chapter or any other provision of law shall not be deemed to prohibit any public officer or member of any public board or commission from subdividing lands owned by him or in which he has an interest and which subdivision of lands is effected under the provisions of Chapter 2 (commencing at Section 11500) of Part 2 of Division 4 of the Business and Professions Code or any local ordinance concerning subdivisions, provided, that (a) said officer or member of such board or commission shall first fully disclose the nature of his interest in any such lands to the legislative body having jurisdiction over the subdivision thereof, and (b) said officer or member of such board or commission shall not cast his vote upon any matter or contract concerning said subdivision in any manner whatever.

3624. (a) An officer or employee shall not be deemed to be interested in a contract if his interest is:

(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided the total annual income to him from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his total annual income, and any other payments made to him by the corporation do not exceed 5 percent of his total annual income;

(2) That of an officer in being reimbursed for his actual and necessary expenses incurred in the performance of official duty;

(3) That of a recipient of public services generally provided by the public body or board of which he is a member, on the same terms and conditions as if he were not a member of the board

(4) That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which event his interest shall be deemed a remote interest within the meaning and subject to the provisions of Section 3622

(b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor

3625. Every contract made in violation of any of the provisions of Section 3620 may be avoided at the instance of any party except the officer interested therein No such contract may be avoided because of the interest of an officer therein unless such contract is made in the official capacity of such officer, or by a board or body of which he is a member.

3626 The State Treasurer and Controller, county and city officers, and their deputies and clerks shall not purchase or sell, or in any manner receive for their own or any other person's use or benefit any state, county or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, or any county or city thereof. This section does not apply to evidences of indebtedness issued to or held by such an officer, deputy or clerk for services rendered by them, nor to evidences of the funded indebtedness of the state, county, or city

3627 Every officer whose duty it is to audit and allow the accounts of other state, county, or city officers shall, before allowing such accounts, require each of such officers to make and file with him an affidavit or certificate under penalty of perjury that he has not violated any of the provisions of this

chapter, and any individual who willfully makes and subscribes such certificate to an account which he knows to be false as to any material matter shall be guilty of a felony and upon conviction thereof shall be subject to the penalties prescribed for perjury by the Penal Code of this state

3628 Officers charged with the disbursement of public moneys shall not pay any warrant or other evidence of indebtedness against the state, county, or city when it has been purchased, sold, received, or transferred contrary to any of the provisions of this chapter

3629 Upon the officer charged with the disbursement of public moneys being informed by affidavit that any officer, whose account is about to be settled, audited, or paid by him, has violated any of the provisions of this chapter, the disbursing officer shall suspend such settlement or payment, and cause the district attorney to prosecute the officer for such violation If judgment is rendered for the defendant upon such prosecution, the disbursing officer may proceed to settle, audit, or pay the account as if no affidavit had been filed

3630 Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, including any member of the governing board of a school district, who willfully violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison for not more than five years, and is forever disqualified from holding any office in this state.

CHAPTER 3 SALES OF PUBLIC SECURITIES

3640 As used in this chapter, "public securities" means any issue of bonds, notes, warrants, or other evidences of indebtedness and the interest coupons, if any, attached thereto, issued by any public body

3641 As used in this chapter, "public body" means any county, city and county, city, municipal corporation, political subdivision, school district, or any other public district or public corporation, any public authority, or any agency of any thereof

3642 Notwithstanding any provision of law to the contrary, a member of the legislative body of any public body or any officer or employee thereof shall not be deemed interested in a contract for the sale of any public securities issued by such public body, provided, that such public securities are sold at public sale to the highest bidder after notice inviting bids has been published as required by the law under which said bonds are issued, or for one time in a newspaper of general circulation not less than five (5) days prior to the date of such sale

CHAPTER 4. CODE OF ETHICS

Article 1. General Provisions and Definitions

3660. (a) As used in this chapter the following terms are to be given the following meanings.

(1) "Financial interest" means any of the following:

(A) A salaried officer of a business or corporation;

(B) Ownership of more than 3 percent of the shares of a corporation for profit, or an annual income to him from dividends, including the value of stock dividends and any other payments made to him by the corporation, in excess of 5 percent of his total income;

(C) The right upon liquidation or dissolution to more than 3 percent of the assets of a firm, partnership, or other noncorporate business entity, or an annual income to him from a firm, partnership or other noncorporate business entity in excess of 5 percent of his total income;

(2) "Business entity" means any commercial undertaking operated for profit including but not limited to a corporation, partnership, proprietorship, association, joint venture or firm,

(3) "Regulated" or "subject to the regulation of a public agency," as defined by applying the test of whether a regulatory agency is authorized to grant or deny licenses, operating rights or other benefits that can substantially affect the profit of the business entity. Counsel for any person or officer or member serving any public agency covered by this act may prepare a list of business entities regulated or subject to the regulation of that public agency;

(4) "Constitutional officer" means the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, State Superintendent of Public Instruction, Members of the Legislature and all other elected state officials,

(5) "Appointive officer" means any salaried officer appointed to his office by any member of the executive, legislative or judicial branch of government It includes appointed employees who are exempt from civil service;

(6) "Salaried officer" means any official who receives a fixed compensation for his services at regular intervals;

(7) "Local executive officer" means any officer or his deputy so designated by law, charter or ordinance The term does not include elected members of the governing board of any special district or any school district;

(8) "Public agency" means the state, city, county, city and county, or a district, or any political subdivision, department, board, commission, body or agency of the foregoing including any public corporation and public authority The term "public agency" does not include any board or commission or committee, the functions of which are purely advisory;

(9) "Ownership of a business entity" means ownership by the person filing the statement or ownership by his spouse or minor child;

(10) "Instrument of ownership" means the instrument defining the fiscal relationship of the owner to the business entity or to real property. This would include but not be limited to: common stock, preferred stock, rights, warrants, options, articles of partnership, proprietary interests and debt instruments if convertible to equity instruments. A convertible debt instrument would include bonds, notes, debentures, and mortgages;

(11) "Real property" means any interest in, or option to purchase any interest in, any real property held for income or gain provided the fair market value of the real property is in excess of one thousand dollars ($1,000). The term "real property" does not include a home or property used primarily for personal or recreational purposes;

(12) "Fair market value" means (A) if a marketed security, the quoted price on the date of filing; (B) if not a marketed security the value at which price a willing buyer would pay to a willing seller, assuming both know the full information on the asset, neither being under any duress to transact;

(13) "Time or demand deposit" means checking and savings accounts in banks, and shares or deposits in savings and loan institutions, unless such shares are marketed securities.

Article 2. Disclosure of Financial Interests

3700 (a) Prior to the 30th of April of each year every constitutional officer, every state salaried appointed officer who is exempt from civil service, every salaried state officer and every local executive officer shall file, as a public record a statement listing the name, instrument of ownership and any position of management held in any business entity, in which his financial interest is in excess of one thousand dollars ($1,000) fair market value as of the date of filing Such persons are not required to list any time or demand deposit in a financial institution, or shares in a credit union, or the cash surrender value of life insurance, of any debt instrument having a fixed yield unless it is convertible to an equity instrument If the value of a financial interest is in excess of one thousand dollars ($1,000) the person filing must state only whether such interest is more or less than five thousand dollars ($5,000) in value

(b) Prior to the 30th of April of each year every employee of a public agency, and every nonsalaried member of a public agency, as well as members of the governing board of a special district, shall file, as a public record, a statement listing the name, instrument of ownership, and any position of management held in any business entity which is regulated by the agency, department, board, committee or commission of which he is a member or an employee and in which his financial interest is in excess of one thousand dollars ($1,000) fair market value as of the date of filing. Such persons are not required to list any time or demand deposit in a financial

institution, or shares in a credit union, or the cash surrender value of life insurance or any debt instrument having a fixed yield unless it is convertible to an equity instrument If a financial interest is in excess of one thousand dollars ($1,000) the person filing must state only whether such interest is more or less than five thousand dollars ($5,000) in value

State elective and appointive officers and state employees required to file statements under this chapter shall file with the Secretary of State.

All other persons required to file statements under this chapter shall file with the county clerk in the county in which they reside.

3701 The Secretary of State, in cooperation with the Legislative and Executive Commissions on Ethics and Conflict of Interest, shall be responsible for disseminating information concerning the statements required by Section 3700 to persons subject to the provisions of this division. The Secretary of State, in cooperation with the commissions, shall prepare a standard reporting form for use by all persons required to report under the provisions of this division

The statement required by Section 3700 shall be revised each year prior to April 30th by the person filing such statement and a supplemental report shall be filed describing any changes in the statement or stating that no changes occurred if such is the case

Any county, city and county, city, special district or judicial district may adopt an ordinance or rule or regulation requiring any or all officers and employees within its jurisdiction to file a statement more restrictive than the one required by this act

3702 Each candidate as defined in Section 3753 for state or local public office, within 10 days after he files his declaration of candidacy or declaration of acceptance, shall file, as a public record, a statement identical to the statement required by Section 3700

3703 Candidates and elected officials required to file statements under this chapter shall file in the same place specified in Section 6550 of the Elections Code for the filing of nomination papers

Article 3 Legislators and Others

3720 (a) No Member of the Legislature, or judge or justice, state elective or appointive officer, state employee, or member of a state board or commission shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state

(b) No Member of the Legislature, or judge or justice, state elective or appointive officer, state employee or member of a

state board or commission shall accept other employment which he has reason to believe will either impair his independence of judgment as to his official duties or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.

(c) No Member of the Legislature, or judge or justice, state elective or appointive officer, state employee or member of a state board or commission shall willfully and knowingly disclose, for pecuniary gain, to any other person, confiidential information acquired by him in the course of and by reason of his official duties or use any such information for the purpose of pecuniary gain.

(d) No Member of the Legislature shall, during the term for which he was elected:

(1) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law; provided, that this section shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workmen's Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this section shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof; and provided that the prohibition contained in this subdivision shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this subdivision shall not apply in connection with any matter pending before any state board or agency on the operative date of this subdivision if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date;

(2) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for

which no payment or reimbursement is made by the State of California;

(3) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he is a member, of the legislation in which he has a personal interest, he first files a statement (which shall be entered verbatim on the journal) stating in substance that he has a personal interest in the legislation to be voted on and notwithstanding such interest, he is able to cast a fair and objective vote on such legislation, he may cast his vote without violating any provision of this article,

(ii) If the member believes that, because of his personal interest, he should abstain from participating in the vote on the legislation, he shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his personal interest In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law

3721. When any officer or employee of any public agency acquires a financial interest not listed on his most recent statement, but which he would be required to list pursuant to Section 3700, he shall within 30 days of such acquisition disclose any instrument of ownership, in any business entity which is regulated or subject to regulation by the public agency of which he is an officer or employee

3722. No person shall induce or seek to induce a state officer or employee or member of a public board or commission to violate any provision of this chapter

3723 A person subject to this article has an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if he has reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. He does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this article, if any benefit or detriment accrues to him as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group

3724 A person subject to the provisions of this article shall not be deemed to be engaged in any activity which is in sub-

stantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this article, solely by reason of any of the following

(a) His relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 3622 of this code or is otherwise not deemed to be a prohibited interest by Sections 3623 or 3624

(b) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Division 8 (commencing with Section 11500) of the Elections Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote opinion, judgment, or action will be influenced thereby

3725 No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this article

3726 No person shall induce or seek to induce any Member of the Legislature to violate any part of this article

Article 4 *Political Contributions*

3750 Each candidate for state or local public office, and each political committee supporting such candidate, shall file, as a public record, two cumulative statements naming each person or organization from whom a contribution or contributions have been received that total more than one hundred ($100) and that have been or may be expended on behalf of his campaign, together with the specific amounts contributed by each person or organization

Statements for candidates for state office shall be filed with the Secretary of State, and statements for candidates for local office shall be filed with the county clerk of the county in which the candidate resides

3751 Statements required under Section 3750 shall be filed at the following times:

(a) Between 20 and 25 days prior to election

(b) Between 30 and 35 days after the election

3752 A statement required under subdivision (b) of Section 3751 may be combined with a campaign statement as defined in Section 11503 of the Elections Code

3753 As used in this chapter

(a) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement whether or not legally enforceable, to make a contribution The term "contribution" includes the services of an employee donated by an employer, in which case the contribution shall be listed in the name of the employer

(b) The term "expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of

value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates, or any duly authorized committee or subcommittee of a political party whether national, state, or local

The term "political committee" does not include any committee formed by a business corporation or enterprise, or group of business corporations or enterprises, which regularly solicits political contributions from officers or employees and which makes such contributions available to political candidates on a bipartisan basis, provided that the amounts contributed by it to each political candidate shall be set forth by the candidate in his statements required under Section 3751

(d) The term "candidate" means any person who seeks nomination or election to a state, county, judicial, or district office, or to a municipal office in a general law or chartered city, at any election or primary conducted within this state

3754 Any person who knowingly violates a provision of this chapter shall be guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one year nor more than five years, or in the county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment

3755. (a) No person who has served as an officer or employee of a state agency shall within a period of two years after the termination of such service or employment appear before such state agency or receive compensation for any services rendered on behalf of any person, firm, corporation, association or business entity, in relation to any transaction, proceeding or application with respect to which such person was directly concerned and in which he participated during the period of his service or employment

(b) Nothing herein contained shall prevent any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this section

Article 5 Executive Commission on Ethics and Conflict of Interest

3800. There is in state government the Executive Commission on Ethics and Conflict of Interest The commission shall consist of five (5) members all of whom shall be appointed by the Governor and serve at his pleasure Of the five members one (1) shall be a member of the State Civil Service System, one (1) shall be an appointive officer and three (3) shall be private citizens

All citizen members should be persons of recognized integrity, judgment and experience in public or civic affairs. The commission shall annually elect its chairman and vice chairman. For purposes of the conduct of official business three members shall constitute a quorum of the commission. Members of the commission shall serve without compensation but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

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

3801. It is the purpose of the Legislature in creating the commission to assure the people that the highest standards of ethical behavior are being maintained by those who conduct the public business consistent with the need to recruit the best persons available to perform the increasingly complex tasks of government. Specifically the commission shall.

(a) Have the continuing responsibility to study and make recommendations to the Governor and the Legislature concerning ethics and conflict of interest in government;

(b) Receive copies of all rules, regulations, administration directives and statements of responsibility issued by department and agency heads, to analyze the same and make recommendations to agency and department heads with respect thereto;

(c) Receive reports from agencies and collect information with respect to, and conduct studies of, personal conflicts of interest of state government employees within the executive branch;

(d) Consult with the Attorney General, the State Personnel Board and other appropriate officials with respect to conflict of interest matters;

(e) Consult with agency and department heads, and appropriate officers designated by them as to the administration of conflict of interest statutes, rules and regulations within their respective agencies and departments

(f) Give advice, in consultation with the Attorney General, with respect to the application of this act and the regulations issued hereunder applicable to their respective agencies;

(g) Provide reports and information to the Governor and the Legislature concerning the administration of this act and conflict of interest matters generally

3802. In addition, the commission shall, on or before the commencement of the 1972 Regular Session of the Legislature.

(a) Compile a thorough and detailed legal analysis of all the conflict of interest law affecting the executive branch and recommend whether such law should be modified;

(b) Recommend to the Governor and Legislature any necessary modification of existing law in order to attract the best qualified persons to state government service consistent with the need to maintain the highest ethical standards in government service;

(c) Prepare, in writing an information program to inform officers and employees within the executive branch of all conflict of interest provisions applicable to them.

(d) Analyze and evaluate all provisions of this act and recommend to the Governor and the Legislature any and all necessary modifications and or additions;

(e) Recommend to the Governor and Legislature any appropriate preventive measures beyond those contained within this act.

(f) Review the statements of incompatible activities approved by the State Personnel Board as to their adequacy and the knowledge of state employees regarding their obligations and duties under the provisions of the statements.

Each agency and department head shall be responsible for the establishment of appropriate standards within his agency to protect against actual or potential conflicts of interest on the part of employees of his agency or department and for the the administration and enforcement within his agency or department of this act and the regulations and orders issued pursuant thereto

3803. 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 written authorization of the commission as a subcommittee composed of two or more members, to hold hearings at such times and places as it may deem proper;

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

(d) To employ a secretary and such clerical legal and technical assistants as are necessary;

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

(f) To cooperate with county, city, city and county and other local agencies in all matters related to the enforcement of this act;

(g) 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 subpoena, to take the oath of 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;

(h) To conduct, in cooperation with the appropriate state agency, investigations into instances of the alleged violation of this act upon receipt of a notarized complaint alleging a a specific violation of this chapter or at its own initiative. If the commission finds that a violation of this act has occured

it shall state its findings of fact and report such findings to the Attorney General and to the district attorney of the appropriate county Any person accused of violating this act shall be entitled to counsel and all rights normally accorded a person called to answer an accusation in a state court of California

3804 Nothing in this chapter shall preclude any person from instituting a prosecution for violation of any provision of this chapter unless such person has filed a complaint with the commission concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the commission has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the commission

3805. The commission shall maintain a confidential record of its investigations, inquiries and proceedings It may, however, release, by a vote of the majority of the members of the commission, to the Attorney General or to the district attorney of the appropriate county any information, records, complaints, documents, reports and transcripts in its possession material to any matter pending before the Attorney General or the district attorney.

3806 The commission may open its meetings to the public except when it is considering an allegation of the violation of this act by any person subject to its provisions. It also may open its meetings to the public when such an individual requests a public hearing All reports of the commission stating final findings of fact shall be public records and open to public inspection Any member or employee of the commission and any witness called before the commission who divulges any matter relating to any allegation before the commission is guilty of a misdemeanor

3807 Actions of the commission wherein final findings of fact are stated in regard to an investigation or inquiry shall require an affirmative vote by at least three members of the commission.

The commission is further empowered to authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties and 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, notwithstanding any authority expressly granted to any officer or employee of the executive branch of state government

Article 6 Legislative Commission on Ethics and Conflict of Interest

3850 There is in state government the Legislative Commission on Ethics and Conflict of Interest. The commission

shall consist of seven (7) members who shall be appointed in the following manner

(a) The chairman shall be appointed by the Joint Rules Committee on the nomination of the Speaker and Senate Committee on Rules

(b) Two (2) members shall be appointed by the Joint Rules Committee on nomination of the Judicial Council from a list of no less than six names.

(c) Two (2) members shall be selected by agreement between the Speaker of the Assembly and the Minority Leader.

(d) Two (2) members shall be selected by agreement between the Senate Rules Committee and the Chairman of the Minority Caucus or his successor

Each member should be recognized for his integrity, judgment and experience in public or civic affairs For purposes of the conduct of official business four (4) members of the commission shall constitute a quorum The members shall serve without compensation but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

Of the first commission appointed under the provisions of this act, four (4) members shall serve one-year terms and three (3) members shall serve two-year terms and they shall hold office until the appointment of their successors The successors to the original members of the commission shall serve two-year terms

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

3851. It is the purpose of the Legislature in creating the commission to assure the people that the highest standards of ethical behavior are being maintained by Members of the Legislature and its employees Specifically the commission shall·

(a) Have the continuing responsibility to study and make recommendations to the Legislature concerning ethics and conflict of interest in government,

(b) Receive reports and collect information with respect to, and conduct studies of, personal conflicts of interest of Members of the Legislature and its employees;

(c) Consult with the Legislative Counsel and other appropriate officials with respect to conflict of interest matters;

(d) Consult with appropriate officers as to the administration of conflict of interest statutes.

(e) Give advice, in consultation with the Legislative Counsel, with respect to the application of this act;

(f) Provide reports and information to the Legislature concerning the administration of this act and conflict of interest matters generally.

3852 In addition, the commission shall, on or before the commencement of the 1972 Regular Session of the Legislature:

(a) Compile a thorough and detailed legal analysis of all state law on conflict of interest affecting the legislative branch and recommend whether such law should be modified;

(b) Recommend to the Legislature any necessary modification of existing law in order to attract the best qualified persons to membership in the Legislature or to employment by it consistent with the need to maintain the highest ethical standards in government service

(c) Prepare, in writing, an information program to inform the Members of the Legislature and its employees of all conflict of interest provisions applicable to them;

(d) Analyze and evaluate all provisions of this act and recommend to the Legislature any and all necessary modifications and or additions,

(e) Recommend to the Legislature any appropriate preventive measures beyond those contained within this act.

3853. 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 written authorization of the commission as a subcommittee composed of two or more members, to hold hearings at such times and places as it may deem proper;

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

(d) To employ a secretary and such clerical legal and technical assistants as are necessary;

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

(f) 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 subpoena, to take the oath of 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;

(g) To conduct investigations into instances of the alleged violation of this act upon receipt of a notarized complaint alleging a specific violation of this chapter or at its own initiative. If the commission finds that a violation of this act has occurred it shall state its findings of fact and report such findings to the Attorney General, the appropriate Rules Committee and to the district attorney of the appropriate county. Any person accused of violating this act shall be entitled to counsel and all rights normally accorded a person called to answer an accusation in a state court of California.

3854. Nothing in this chapter shall preclude any person from instituting a prosecution for violation of any provision of this chapter unless such person has filed a complaint with the commission concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the commission has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the commission.

3855 The commission shall maintain a confidential record of its investigations, inquiries and proceedings It may, however, release, by a vote of the majority of the members of the commission, to the Attorney General, the Rules Committee, or to the district attorney of the appropriate county any information, records, complaints, documents, reports and transcripts in its possession material to any matter pending before the Attorney General or the district attorney

3856 The commission may open its meetings to the public except when it is considering an allegation of the violation of this act by any person subject to its provisions. The meeting shall be open if such individual requests a public hearing. All reports of the commission stating final findings of fact shall be public records and open to public inspection Any member or employee of the commission and any witness called before the commission who divulges any matter relating to any allegation of conflict of interest before the commission is guilty of a misdemeanor

3857. Actions of the commission wherein final findings of fact are stated in regard to an investigation or inquiry shall require an affirmative vote by at least four members of the commission

3858 The commission is further empowered to authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties and 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, notwithstanding any authority expressly granted to any officer or employee of the legislative branch of state government

SEC 6 Article 2 (commencing with Section 8920) of Chapter 1, Division 2, Title 2 of the Government Code is repealed

SEC 7. Article 3 (commencing with Section 8940) of of Chapter 1, Division 2, Title 2 of the Government Code is repealed

SEC 8 It is the intent of the Legislature that funds for the support of the Legislative Commission on Ethics and Conflict of Interest from the Contingent Funds of the Assembly and Senate based on a budget approved by the Joint Rules Committee

SEC 9 There is hereby appropriated from the General Fund to the Executive Commission on Ethics and Conflict of Interest the sum of fifty thousand dollars ($50,000) to be used to carry out the purposes of the commission

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CALIFORNIA LEGISLATURE

A Final Report of the California State Assembly Statewide Information Policy Committee

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MARCH 1970

LETTER OF TRANSMITTAL

HON. ROBERT MONAGAN
Speaker of the Assembly, and
Members of the Assembly
State Capitol
Sacramento, California

Dear Speaker Monagan:

Transmitted herewith is the report of the Assembly Committee on Statewide Information Policy, which was created by the Speaker of the Assembly pursuant to House Resolution No 64, passed on July 10, 1969

The Committee was given a mandate to study the problem of preserving personal privacy in the computer age Public hearings were held in Sacramento on September 2, 1969, in Los Angeles on September 22, 1969, and in San Diego on December 18, 1969

The Committee would like to express its appreciation for the valuable assistance provided by the many competent witnesses that appeared before it. Their contributions have been of great help to the members of this Committee in informing the Assembly of a technologically complex subject Those testifying were Charles P Smith, Director, Office of Management Services; Norman Livran, Executive Secretary, Intergovernmental Board on EDP, Robert A Sorensen, Director, General Services, County of Santa Clara; Bill Millard, Manager of Data Processing, City and County of San Francisco, Bill Benbk Administrative Analyst, Legislative Budget Committee; John Cunniffe, Corporate Director of Data Communication and Robert H Courtney, Manager of Data Security and Privacy, IBM Corporation, Willis H Ware, Professor of Computer Science, the Rand Corporation, Noel S Alton, President, Alton Associates Corporate; Donn B Parker, Director of Computer Planning and Operations, Stanford Research Institute, Robert Brictson and Lorimer McConnell, Systems Development Corporation, David A Winston, Assistant Administrative Analyst, Legislative Budget Committee; Keith A Ball, Chief, Division of Drivers Licences Department of Motor Vehicles; Al Veglia, Representing R. L Polk and Company, Fred L Shanbour, Representing Computing and Software, Inc, Ronald A Katz, Director, Telecredit, Inc , Gerald P O'Hara, Representing California Teamsters Legislative Council

The five legislative members of the Committee are particularly indebted for the extremely competent advice and insight contributed by the eleven members of the Advisory Committee who were Charles A Barrett, Assistant Attorney General; Mike Dorais, Legislative Representative, California Newspaper Publishers Association, Dick Fogel, Assistant Managing Editor, OAKLAND TRIBUNE, Steven Gibbens, Chief, Data Processing Center, Department of Public Health; Lance J Hoffman, Staff Associate, Stanford Linear Accelerator Center; Al Nichols, Manager, Data Processing, County of San Diego, Herman L Pede Manager Data Processing, San Juan School District, Ray Remy, Assist-

ant to the Director, League of California Cities; Marc Sandstrom, Assistant Secretary, Business and Transportation; John P. Sheehan, Deputy State Controller; Howard Smiley, Executive Director, California Broadcasters Association.

The amount of time and effort which they devoted over a four-month period has been the major factor in development of the findings and the recommendations of this Committee.

Additionally, the Committee was asked to review the California Public Records Act of 1968 with particular regard to the justification for statutorily exempting certain public agencies from its provisions and for problems or record retention and destruction created by the passage of the act These subjects were dealt with a public hearing held in San Francisco on September 15, 1969

Finally, the Committee wishes to acknowledge the fine work of the Committee Staff Consultant Victor Fazio, Committee Intern Robert McWhirk, and Secretary Joyce Nary, in the conduct of the study and the production of the report

Sincerely,

WILLIAM T BAGLEY
HARVEY JOHNSON
JERRY LEWIS
JOHN QUIMBY
ROBERT WOOD

TABLE OF CONTENTS

I. THE CALIFORNIA PUBLIC RECORDS ACT OF 1968

A. LEGISLATIVE HISTORY

In 1968, the Governor of California signed into law the California Public Records Act which was authored by Assemblyman William T. Bagley of Marin-Sonoma Counties The Act clarified and reaffirmed "that access to information concerning the conduct of the people's business is a fundamental and necessary right of every citizen" of California.

The enactment of AB 1381 marked the conclusion of legislative efforts to develop a general records law, dating back to 1953 and the study of the Senate Special Committee on Governmental Administration which conducted "a survey as to the accessibility of government records to public inspection"

The Assembly Interim Committee on Government Organization, chaired by Assemblyman Milton Marks, updated the work of the Senate Committee in 1965 and supported "the enactment of general legislation providing for access to public records based on the public's right to know" The Committee further recommended that "such legislation should apply to all governmental agencies and require all records to be open to the public except where public policy as expressed by statute required confidentiality"

In November 1967, the Speaker of the Assembly appointed an Open Records Advisory Committee pursuant to HR 5 of the Second Extraordinary Session, authored by Assemblyman Bagley Joining Chairman Bagley on the Committee were Charles A Barrett, Assistant Attorney General, State of California, A H Moffitt, Jr, State Bar of California; Michael Dorais, California Newspaper Publishers Association, Virgil Mitchell, California Broadcasters Association, William Hollman, League of California Cities, Douglas Maloney, County Supervisors Association of California; Ray Spangler, Sigma Delta Chi, Larry L Sisk, California Freedom of Information Committee; Aaron Epstein, American Newspaper Guild, Adolph Moscovitz, California School Boards Association and James Reusswig, Association of California School Administrators Assembly Bill 1381, patterned after two prior unsuccessful attempts to draft a comprehensive law, was the product of the Advisory Committee's deliberations and, in general, provided a consensus agreement of the diverse interests represented

Various statutes written in the common law tradition insuring access to documents to be used as evidence in court proceedings had served as the basis for California's public records statutes The basic law, written in 1872, was vague and had been interpreted by the courts in a restrictive fashion Many opinions of the Legislative Counsel, the Attorney General, and local county counsels and city attorneys, even though often conflicting, had assumed the force of law

With the passage of California's "Freedom of Information Act," the outdated laws were repealed and the web of opinions and court decisions were invalidated

For the first time, by referring to one chapter of the Government Code, a city or county clerk, newspaper reporter or ordinary citizen could ascertain with a great degree of certainty whether a document was a public record and whether it should be disclosed to anyone requesting to inspect or copy it

B. LAW AND COMMENTARY

CHAPTER 3 5 INSPECTION OF PUBLIC RECORDS

6250 In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every citizen of this state

The potential conflict between the right to know and the right to privacy is clearly recognized in the introductory paragraph Individuals with records filed by their name or identification number are referred to here This was not meant to be a general concern militating against disclosure of information kept by agencies that in aggregate inform the public of the working of its government

6251. This chapter shall be known and may be cited as the California Public Records Act

6252 As used in this chapter

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution

Article IV refers to the State Senate and Assembly of California and exempts those bodies from the provisions of the Records Act Section 20 relates to Fish and Game Districts and the State Fish and Game Commission which are covered by the Act Article VI exempts from coverage under the provisions of this act the Judicial Branch of Government including the Judicial Council, the Commission on Judicial Appointments, the Commission on Judicial Qualifications and the State Bar of California It should be noted that records of the Governor and the Legislative Counsel are public records but not open to inspection (See subsections (l) and (m) of Section 6254)

(b) "Local agency" includes a county; city, whether general law or chartered, city and county; school district, municipal corporation; district; political subdivision, or any board, commission or agency thereof, or other local public agency

Every local agency that maintains any record is to be covered

(c) "Person" includes any natural person, corporation, partnership, firm, or association

(d) "Public records" includes all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics

This definition is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed Only purely personal information unrelated to "the conduct of the public's business" could be considered exempt from this definition, i e . the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities.

6253. Public records are open to inspection at all times during the office hours of the state or local agency and every citizen has a right to inspect any public record, except as hereafter provided Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section

The agency is permitted to adopt regulations that will promote the safety and organization of files It is hoped that the regulations would be consistent and in written form for the convenience of the public.

6254 Nothing in this chapter shall be construed to require disclosure of records that are

The responsible public official may make information available under this section but he is not required to do so under state law

(a) Preliminary drafts, notes, or interagency or intragency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure,

In general, working papers are not available unless they are retained for future reference A balancing test however, is included which forces the agency to show an overriding public good in support of a policy of non-disclosure before this section can be invoked

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3 6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

Any agency cannot be required to release information that pertains to litigation involving that agency This does not grant to the public agency the right to withhold information on the basis that litigation may occur at some time in the future

The same principle applies to claims made by individuals against public entities and public employees

Records relating to these cases are available after adjudication or settlement This section, in effect, upholds the attorney-client privilege. Subsections (f) and (k) also contribute to the strength of that privilege

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

In order to protect information of a highly personal nature which is on file with a public agency, this general exemption was included. It

would typically apply to public employee's personnel folders or sensitive personal information which individuals must submit to government. A public officer might consent to make it available with the permission of the individual involved

(d) Trade secrets;

Business information held by government which would, if disclosed, injure a company by making secret data available to its competition, would not be open for inspection (See Section 1060 of the Evidence Code which establishes limits on the applicability of the term "trade secret".)

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

Specially exempted are certain records which relate to private industrial information given to a public agency in confidence

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes;

The investigatory security files of state and local government are to be made available, in general, based upon a discretionary policy of the correctional, law enforcement or licensing agency involved

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination,

In order to protect the inviolability of tests administered by public agencies, an exemption has been included to cover examination data. The public officer may make available a completed exam paper, if he chooses.

(h) The contests of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

The public has a right to know the basis upon which property is acquired or confidential work done The information which is gathered by the public agency prior to the conclusion of the transaction is not public The process of asking for and accepting bids would be upset by allowing a person access to a competitor's bids or to the estimates or evaluations of the governmental agency before a decision is made

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the

disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

Information gathered in confidence from local taxpayers relating to their tax returns which might give a competitor an unfair advantage is exempt from coverage by this subsection

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes, and

Reference material kept in a public agency library is not necessarily a public record Library rules may prevent individuals from gaining access to certain documents. The legal library of the Attorney General, for example, is not available to the general public on a regular basis

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

This key exception to the provisions of the Public Records Act exempts from disclosure those records which are closed because of the provisions of specific state or federal law

Section 1040 of the Evidence Code which allows a public officer to receive information in confidence from any individual without having to disclose its contents is given general precedence over provisions of the records act by this subsection Other Articles relating to privilege include those relating to the physician-patient, psychotherapist-patient, and clergyman-penitent relationship These are traditionally used in proceedings "of any nature in which testimony can be compelled by law to be given"

(l) In the custody of or maintained by the Governor or employees of the Governor's office employed directly in his office, provided that public records shall not be transferred to the custody of the Governor's office to evade the disclosure provisions of this chapter

This subsection was not intended to allow a state agency to use the Governor's office as a repository for its records in order to prevent their disclosure It was meant to permit only the Governor and his immediate staff discretion in the handling of public records within its purview

(m) In the custody of or maintained by the Legislative Counsel

See Government Code Section 10207 for further elaboration on the records of the legislative counsel.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law

The concluding paragraph of Section 6254 places special emphasis upon the need to disclose records concerning the administration of a public agency unless specific prohibition against such a disclosure can be found in other sections of state or federal law.

6255. The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record

A public agency may only refuse to disclose the contents or permit the copying of a public record, if it can show specific justification under the California Public Records Act or show that the public interest *clearly* is on the side of non-disclosure when weighed against the public benefits derived from making the record public

6256. Any person may receive a copy of any identifiable public record or shall be provided with a copy of all information contained therein Computer data shall be provided in a form determined by the agency

Records are maintained in a variety of mediums. When kept in a computer, information may be given out in print-out form or for example, at the option of the agency, it may be released in computer card or tape form. The flexibility is designed to accommodate the various needs of the local agency and the citizen requesting information. Some form of data must be made available

The author did not intend that any agency should willfully disregard the spirit of the law by disseminating information in a form which would be unintelligible to the individual requesting it.

6257. A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, or the prescribed statutory fee, where applicable

A number of commonly used records have a statutory fee which is charged for each reproduction An agency without a standard cost may assess a reasonable fee or deposit based on the agency's cost in making the information available

6258. Any person may institute proceedings in any court of competent jurisdiction to enforce his right to inspect or to receive a copy of any public record under this chapter The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time

The Superior Court in the county in which the record was created or kept confidential is the court of competent jurisdiction. The law intends that the decision on the merits of withholding or disclosing a record be made as soon as possible so that the records value to the individual requesting it will not be lessened by any delay

6259. Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose

the public record or show cause why he should not do so The court shall decide the cause after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court

Any action must be initiated by the individual denied access to information The public officer then must show cause as to why he has refused disclosure The court will then examine the records in secret within its chambers and also hear oral arguments and view any other evidence before deciding on the justification of the public officer's decision

Even when a claim of privilege has been made under Evidence Code 1040 (information given in confidence to a public officer) or 1060 (trade secret) etc , the judge, if he needs the information, may require that the records be shown to him away from everyone but the person authorized to claim the privilege and others designated by that person

The public officer must base his decision on the language in Sections 6254 and/or 6255 Any individual disobeying the court's verdict can be held in contempt

6260 The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state

The California Public Records Act was never intended to affect the status of traditionally available documents maintained by the courts or the specific statutes which treat certain court records individually

The laws of discovery, which are undergoing evolutionary change in California, were not to be influenced by general records law

(See Appendix G for the Attorney General's interpretation of the California Public Records Act)

C. STATUTORY EXEMPTIONS

Of the several exceptions to the general law covering the inspection of public records in California, perhaps the most crucial is Subsection (k) of Government Code Section 6254 which exempts "records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege"

The effect of that language is to continue in force the various statutes scattered throughout the codes that pertain to records of a particular

type kept by a public officer or agency The many records resulting from special relationships that require confidential treatment (i e attorney-client public officer-citizen, etc) are also preserved

Initially, before the passage of AB 1381 in 1968, and AB 2294 in 1969, the codes were littered with redundant references to the records policy of various officers and agencies Most merely restated general provisions relating to an open records policy which has been embodied in Government Code Section 6253 of the records act Since that time, 120 statutes have been amended or repealed in order to delete any unnecessary reference to public documents.

Those statutes relating to records that remain in the codes generally serve to prevent or limit the disclosure of *specific* records held by *specific* agencies or officers Most protect sensitive information and provide little discretion to the official who must enforce them (See Appendix A for complete list).

There are, however, certain agencies which have remained insulated from the effect of the Public Records Act because certain statutes grant their chief administrators broad discretion in opening or closing files.

Four regulatory agencies which have that authority appeared before the committee

BANKING DEPARTMENT

Applicable Statute·

Financial Code Section 254· Records of department

> The records of the department are not public documents and are not open to inspection by the public

The Superintendent of Banks has authority to limit the distribution of information within his department While his records are not public, he is required by state and federal law to circulate reports on the condition of banking in the state and bank financial statements filed with his office.

DIVISION OF CORPORATIONS

Applicable Statutes:

Corporations Code Section 25605: Public inspection of commissioner's records, authority to make information public

> (a) All applications, reports and other papers and documents filed with the commissioner under this law shall be open to public inspection, except that the commissioner may, in his discretion, withhold from public inspection any information the disclosure of which is, in the judgment of the commissioner, not necessary in the public interest or for the protection of investors. The commissioner may publish any information filed with him or obtained by him, if, in the judgment of the commissioner, such action is in the public interest No provision of this law authorizes the commissioner or any of his assistants, clerks, or deputies to disclose any information withheld from public inspection except among themselves or when necessary or appropriate in a proceeding or investigation under this law or to other federal or state regulatory agencies. No provision of this law either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his assistants, clerks, or deputies.

(b) It is unlawful for the commissioner or any of his assistants, clerks, or deputies to use for personal benefit any information which is filed with or obtained by the commissioner and which is not then generally available to the public

Corporations Code Section 27005: Commissioner's records, public inspection; authority to make information public.

All papers, documents, reports, and other writings filed with the commissioner under this division shall be open to public inspection, except that the commissioner may, in his discretion, withhold from public inspection, for such time as in his judgment is necessary, any information which, in his judgment, the public welfare requires to be so withheld The commissioner may, at any time, give, issue, or make public any information, facts, or data in his possession concerning any company or individual, if in his judgment giving, issuing, or publishing it will tend to prevent fraud or injury to the public

Financial Code Section 17117: Public inspection of records

All papers, documents, reports and other instruments in writing filed with the commissioner under this division shall be open to public inspection, except that the commissioner may, in his discretion, withhold from public inspection for such time as in his judgment is necessary any information which in his judgment the public welfare or the welfare of any licensee requires to be so withheld.

Financial Code Section 18610: Annual report

On or before the fifteenth day of March of each year, each company shall file a report with the commissioner, prepared by an independent certified public accountant or public accountant, giving such relevant information as the commissioner reasonably requires concerning the business and affairs of the preceding calendar year for each place of business within the State conducted by such company Each such report shall contain, amongst other information required by the commissioner, a balance sheet of the company as of the last day of the previous calendar year and statements of income and surplus for such previous calendar year, together with an opinion by an independent certified public accountant or public accountant as to whether such financial statements have been prepared in conformity with generally accepted accounting principles The opinion shall be based on an examination of such financial statements made in accordance with generally accepted auditing standards and accordingly including such tests of the accounting records and such other auditing procedures as are considered necessary in the circumstances, and such examination shall include a count or independent confirmation of investment certificates, investments, loans and receivables in accordance with generally accepted principles of auditing procedures and standards If the opinion is in any way qualified, the commissioner may require the company to take such action as he deems appropriate to permit the certified public accountant or the public accountant to remove the qualification from his opinion Each company report shall contain a schedule showing the amount of delinquent loans and receivables classified

according to their delinquent status in such form and detail as the commissioner may by regulations prescribe Reserves for possible losses in collection shall be separately disclosed in the financial statements. The report shall contain comments of the accountant regarding the confirmation procedure employed and the results thereof as well as the adequacy of reserves and charge-offs For the purposes of the composite report provided in Section 18611 each company shall furnish statistical information as reasonably requested by the commissioner The commissioner may make available to any inquirer information contained in the annual report.

The four code sections which govern the policy of the Commissioner of Corporations have vested in him broad authority to withhold or disclose information as he sees fit.

DEPARTMENT OF SAVINGS AND LOAN

Applicable Statutes:

Financial Code Section 5023: Records of commissioner

Except as otherwise expressly provided in this division, the records of the commissioner are not public documents and are not open to the inspection of the public

Financial Code Section 8709: Copies of annual report at commissioner's offices, examination by association investor

A copy of each annual report made to the commissioner shall be kept at each office of the commissioner, and shall be open to examination by any investor of the reporting association, subject to such reasonable regulations as the commissioner prescribes

Financial Code Section 8710 Inspection of report by public

The copy of the annual report filed in the commissioner's office is a public document and open to inspection by the public If in the judgment of the commissioner, the public welfare or the welfare of any association demand that any report or any information in a report should not be made public the commissioner may withhold such report or information from inspection by the public or any investor for such time as in his judgment is necessary

Financial Code Section 8754· Inspection of audit by public

The copy of the audit filed in the commissioner's office is a public document and open to inspection by the public If in the judgment of the commissioner, the public welfare or the welfare of any association demand that any audit, or any information in an audit should not be made public, the commissioner may withhold such audit or information from inspection by the public or any investor for such time as in his judgment is necessary

Financial Code Section 8807· Authority to disclose information

The commissioner may make available to any regulatory or other public authority or officer, or to the Federal Home Loan Bank Board, any federal home loan bank, the Federal Savings and Loan Insurance Corporation, or the Home Owners' Loan Corporation any information furnished to or obtained by, and all or any part of any report of any examination of any such association made by him.

The Savings and Loan Commissioner has broad authority to regulate the public release of annual reports and audits of savings and loan associations and of information requested by other public authorities

Under *Financial Code Section 5023*, all other records of the Department would not be open to inspection Only the Banking Superintendent has broader discretion than the Commissioner of Savings and Loan

DEPARTMENT OF INSURANCE

Applicable Statutes.

Insurance Code Section 735: Publication of results

Such examination shall be private unless the commissioner deems it necessary to publish the result of such investigation In the latter case, he may publish the results in two public newspapers, one published in the City of San Francisco and the other in the City of Los Angeles

Insurance Code Section 855: Public records

All writings filed with the commissioner under this article shall be open to public inspection except where in his judgment, the public welfare or the welfare of any insurer demands that any portion of such information be not made public In such cases, he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary

Insurance Code Section 1763· Conditions to placement of insurance

A surplus line broker may solicit and place insurance, other than as expected in section 1761, with non-admitted insurers only if such insurance can not be procured from majority of the insurers admitted for the particular class or classes of insurance Such part of the insurance insurers, if the insurance is not placed in a non-admitted insurer for the purpose of procuring a rate lower than the lowest rate which will be accepted by any admitted insurer It shall be conclusively presumed that insurance is placed in violation of this paragraph where the insurance is actually placed with a non-admitted insurer at a lower rate of premium or lower premium than the lowest rate of premium or the lowest premium which could be obtained from an admitted insurer unless, at the time such insurance attaches, there is filed with the commissioner a statement describing the insurance, specifying the rate and the nearest procurable rates from admitted insurers Unless the commissioner within five days after such filing notifies the filing broker that in his opinion the placing of the insurance constitutes a violation of this section, the broker may thereafter maintain in effect such insurance If within such five-day period the commissioner notifies the surplus line broker that such insurance is in violation of this section and orders the broker to effect termination of such insurance within ten days from such notice, and the broker fails or refuses to effect such termination, such failure or refusal is a violation of this section Statements filed under this section shall not be subject to public interest or the welfare of the filing broker requires that any statement be made so subject The commissioner may make and publish reasonable rules and regulations, consistent with this chapter, in respect to transactions governed thereby and the basis of bases for his determinations hereunder.

Insurance Code Section 1860.3: Code sections applicable to chapter

The provisions of the following sections of this code shall be applicable to the administration, enforcement and interpretation of this chapter

Sections 1 to 41, both inclusive, 100 to 121, both inclusive, 620, 621, 700, 701, 704, 730 to 737, both inclusive, 12903, 12904, 12919, 12921, 12921.5, 12924 to 12926, both inclusive, 12928, 12930, and 12974 to 12977, both inclusive.

Insurance Code Section 12919: Confidential communications

Communications to the commissioner or any person in his office in respect to any fact concerning the holder of, or applicant for, any certificate or license issued under this code are made to him in official confidence within the meaning of subdivision 5 of section 1881 of the Code of Civil Procedure Liability shall not exist and no action or proceeding shall lie for or on account of any such communication or the making thereof, but the existence of such communication shall not be deemed to dispense with or nullify any requirement of notice, hearing or production of evidence before the commissioner as otherwise required by law

Insurance Code Section 12956: Forms filed with commissioner, public inspection

Forms of policies filed with the commissioner and writings in respect thereto shall be open to public inspection except where, in his judgment, the public welfare or the welfare of any insurer demands that any portion thereof be not made public In such cases he may withhold such information from public inspection for such time as in his judgment is necessary or advisable

Insurance Code Section 1433: Examination of records of subscribers' names.

The commissioner's right of examination shall include the right to examine the records containing the names and addresses of the subscribers Any information obtained from such records shall be confidential and the disclosure thereof, except under order of court, constitutes a breach of official duty

Insurance Code Section 11141: Public statements by commissioner

Pending, during or after an examination or investigation of a society, either domestic or foreign, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire

Insurance Code Section 11754: Notice to correct non-compliance

If the commissioner has good cause to believe that a rating or advisory organization or an insurer does not comply with the requirements of this article applicable to it, he shall, unless he has good cause to believe that such non-compliance is alleged to exist

and specifying therein a reasonable time, not less than ten days thereafter, in which such non-compliance may be corrected Notices under this section shall be confidential as between the commissioner and the organization or insurer unless a hearing is held under Section 11754 1

The Insurance Commissioner can employ six code sections which grant his office broad authority to limit the public's access to information concerning his Department

In the case of the Department of Insurance, three other sections which would close specific records which would allow no discretion to be exercised, exist as well

In order to determine the justification for the discretionary policy of these business regulatory agencies, the Committee heard testimony from Superintendent of Banks, James Hall, Chief Deputy Corporations Commissioner, James L Kelly, Chief Counsel for the Department of Savings and Loan, Saul Perlis and Chief Assistant Insurance Commissioner, Jiro Ikeda

Assemblyman Bagley indicated his desire to see the repeal of most of the statutes governing the records policy of the four agencies, thus making them adhere to the same provisions of law (the Records Act) that govern the policy of most state and local agencies He also advocated the concurrent introduction of legislation to specifically exclude from disclosure those specific records that were judged to be necessarily confidential.

In general, the four agencies were willing to support repeal of their discretionary statutes but indicated a desire to add a broad general exemption covering financial information similar to that found in the Federal Freedom of Information Act The language in that Act exempts "matters that are contained in or related to examination, operating, or condition reports prepared by or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions"

FINDINGS

1 The California Public Records Act is a balanced and clear law designed to simplify the process of gaining access to public documents

2 No justification can be found for exempting certain state or local agencies from the general provisions of the records law Clearly, this does not mean that certain records of a confidential nature must be made public, however, no agency should be granted any more administrative discretion than that provided by the California Public Records Act

RECOMMENDATIONS

1 The Committee believes that those statutes which give discretionary power over the disclosure of public information to the Superintendent of Banks, Commissioner of Corporations, Insurance Commissioner, and Savings and Loan Commissioner should be repealed and amended so that those agencies must, in general, adhere to the provisions of the California Public Records Act of 1968.

2 Specific records or classes of records maintained by these four departments which warrant confidential status should be exempted under the exemptions section of the Public Records Act (Section 6254 of the Government Code) The language of existing exemption provisions should be modified, if necessary, to protect the records of the Departments whose untimely disclosure or purely confidential nature would be adverse to the total public interest

II. COMPUTERS AND PRIVACY

A. BACKGROUND

The last few years have seen a new political issue emerge in California and throughout the country The phrase "the right to privacy" has been used before in many contexts, including the debates surrounding search and seizure and wiretapping but it is now being invoked with far greater unanimity in regard to the advancing prospect of a computerized society

There is little dissent from the generally held view that the same computers that allow man to gather, retain, reorganize and disseminate more information more quickly, accurately and inexpensively, also present an awesome challenge to man's ability to preserve his personal privacy and eventually his individual freedom

Many commentators have been content to sound this warning while proposing superficial solutions that fail to take into account a variety of conflicting social values and unresolved legal and technological problems

For example, many who have championed the cause of privacy leave unclear the statutory boundary where the personal right of privacy and the public's right to know the workings of its government meet Those who know the complexity of government records policy and practice will realize that these values do not always remain separate and distinct

Others who have suggested solutions to the problem of privacy invasion have called for the limitation of personal data collection by government or for an end to the increasing application of electronic data processing to governmental administration While these suggestions might produce the desired effect, the concomitant results would seriously limit governmental capacity to successfully operate social programs that may be effective for the citizens involved and/or efficient and economical for the taxpaying populace as a whole

This report attempts to evaluate the impact of computerization on the privacy of individuals in an objective manner We are assuming that State and local government in California will be utilizing EDP to an even greater extent in the future, relying increasingly on the development of data base information files, accessed by "on-line" remote terminals

The demand for more information will not cease and will probably accelerate in the years ahead as more citizen service programs are developed and systematized Storage cost savings may well promote the centralization of individual files, thereby increasing the "payoff" for file invasion

In short, the future applications of computer technology, which hold great potential for advancement of our culture, also invoke a growing threat to our currently understood social value of individual privacy This report intends to focus on attempts to deal realistically with the coming computer age so that we may, in some measure, control its impact on our society As Professor Robert Fano of MIT has said, "You can never stop these things It is like trying to prevent a river from

flowing to the sea What you have to do is build dams, to build water works, to control the flow " It is the goal of this report to contribute to the building process

B. THE RIGHT TO PRIVACY IN CALIFORNIA—THE CURRENT STATUS

Although initially a reaction to the U S Bureau of the Budget's proposed National Data Bank, a potential repository for information gathered by federal, state and local agencies, the controversy surrounding the impact of electronic data processing on personal privacy has widened to encompass other levels of government and additional issues.

The plans of the U S Census Bureau came under fire from the Congress and the practices of personnel, credit and insurance reporting agencies in the private sector were scrutinized by the U.S Senate and the California Legislature

California dealt with the privacy issue as it relates to government files, in general, for the first time in 1968. The Public Records Act, passed during that session, began with this sentence

> "In enacting this chapter, the Legislature, *mindful of the right of individuals to privacy*, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person of this state".

The Act also exempted certain categories of records from mandatory disclosure, including the phrase under Subsection (c) of Government Code Section 6254 "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy " The limits of this language have yet to be defined by the courts

The basic law which governs the confidential status of public records involving individuals is found in specific statutes scattered throughout the codes which continue to take precedence over the omnibus records act (see Subsection (k) to Government Code Section 6254) (For a listing of these codes, see Appendix A)

Common law cases relating directly to privacy have rarely touched upon information contained in the files of public agencies Both common and statute laws pertaining to privacy have concentrated on issues relating to disclosure of personal information through the media and to polygraphs and wiretapping (For a thorough review of the legal right of privacy as it exists in California, see Appendix B, Opinion 17364 of the Legislative Counsel)

Of major importance to the Information Policy Committee Study, however, is the section of Legislative Counsel Opinion No 17664 that states that "matters of public record cannot be the basis of an action for violation of the right to privacy "

An additional opinion (see Appendix C, Legislative Counsel Opinion No 17344), holds that "an individual cannot obtain an injunction preventing the disclosure of public records required to be made available to the public or records which may be made available in the discretion of the official having custody " The Counsel also held that this remedy could not apply even in the case a potential release of inaccurate information

In this case, however, damages might be collected for injury done as a result of the release of incorrect information by a public agency

Also in 1968, the late Senator George Miller authored legislation to bring some rational decision-making to the application of EDP to California government His measure declared that the intent of the Legislature was "that such goals as one-time collection of data, minimum duplication of records, and maximum availability of information at the lowest over-all cost will not jeopardize or compromise the confidentiality of information as provided by statute or the protection of the right of individual privacy as established by law."

Under the Miller Act, the Intergovernmental Board on EDP was established and asked to "recommend any legislation required to insure the protection of individual privacy and the necessary confidentiality of information becoming part of an intergovernmental information system" The Board issued a policy statement on the subject on May 29, 1968 and established a Subcommittee on Privacy and Confidentiality with specific objectives (See Appendix D) No recommendations have been forthcoming

The Subcommittee of the Intergovernmental Board "has been adjudged to be the primary committee to deal with this issue in the Executive Branch" according to testimony of Charles P Smith, Director of Management Services, before this committee

Mr Smith's organization, under the Miller Bill, is staff to the State EDP Policy Committee, and is charged with the review of procedures, standards, policies and plans for the development of EDP in California State Government

The Budget Act of 1969 clearly specified that all proposed information systems must be developed with adequate provisions for protection of individual privacy and confidentiality of information According to Smith, "the Director of Management Services must certify that all information systems must have consideration and attention given to the issue of confidentiality" before operation

The Lieutenant Governor, to whom the Director of Management Services reports, in his capacity as staff to the Chairman of the State EDP Policy Committee, is the constitutional officer primarily responsible for data security and confidentiality

In a preliminary draft of the "Long-Range Master Plan for the Utilization of Electronic Data Processing in the State of California" published September 26, 1969, OMS listed as a long-range goal the definition "of confidentiality and security requirements for all existing and planned systems"

The draft Master Plan stated, "there has been much concern expressed by the Legislature and others that exchange of information or shared data files would result in misuse of information The fact that *sensitive data already exists in department files and is more accessible to interested parties than is desirable is often overlooked* In many respects, consolidation of this data into a few files simplifies the control problem" OMS also states that, "the solution to the problems of confidentiality and the application of the techniques and procedural safeguards is the responsibility of the program department with policy and management control of the information Control over the security of information should reside with the department responsible for the storage of that data" Thus, a dual responsibility is established between a state agency and the proposed data processing center.

The unresolved issue, however, is how realistically will the question of confidentiality be handled The following exchange, which took place at the Assembly Committee hearing of September 2, can perhaps serve as our most honest guide

Mr Lance Hoffman, Stanford University. "What safeguards, if any, exist today to protect the privacy and confidentiality of information in state computer systems?"

Mr Charles Smith, Director of the Office of Management Services "I'd say, basically, the authority and responsibility that rests within each individual agency, and I suspect that ten years from now, when you come right down to it, that will still be the fundamental way in which confidentiality is protected for the individual and information is given to the people who require the information, whether they be from another state agency, from the Legislature, or from the private citizen or the public"

In order to learn what were the attitudes of state agencies toward the issue of confidentiality, the committee conducted a survey of State departments which use computer systems to file and process data. Thirty-seven agencies responded to the questionnaire in varying degrees of detail (See Appendix E for complete responses)

Despite the passage of the California Records Act, most agencies rely on specific statutes or administrative rules to govern questions of access to computerized data Data processing managers, department counsel and administrative service sections all play a role in the determination of policy.

Some State department executives indicated their concern for the prospect of centralized data files Martin Huff, Executive Officer of the Franchise Tax Board, which administers the collection of personal, bank and corporation taxes in California, responded to Chairman Bagley's questionnaire, "The problem of confidentiality of the type of information we have on EDP has not been a major problem to date With trends toward consolidation of data processing facilities into large service centers handling the work of many State departments, the problem will present new dimensions"

The problem of secondary use of information collected and disseminated by State agencies was also mentioned by several departments The Department of Justice is not able to control the uses which local law enforcement may make of data obtained from its computer system in Sacramento

The Secretary of State is concerned that voter registration tapes are put to some commercial use despite the provisions of Section 456 5 of the Elections Code He points out that local county officials have no such law to direct the use of registration tapes developed and distributed within their jurisdiction

The Department of Human Resources Development pointed out its lack of control over data it provides county welfare agencies stating, "we cannot answer that the recipient of the data is using it for the legal purposes for which it was presumably requested"

Although they attempt to control secondary use of data provided commercial mailing houses, the Department of Motor Vehicles and Professional and Vocational Standards have little actual control over information once it is first released

The Board of Equalization sells public information at a brisk pace for purposes of developing mailing lists

Two agencies seemed particularly sensitive to personal privacy. The Department of Public Health obviously was concerned with educating their employees to the sensitive nature of the data maintained by the department Employees were asked to sign a statement entitled "Outlines for Respecting the Confidentiality of Health Department Records."

The California State Colleges, now implementing an EDP personnel system, stated, "since the system can be operated from remote terminals, appropriate software safeguards have been incorporated to prevent unauthorized access Password and terminal identification are both used, and one campus cannot gain access to the personnel records of a second campus" Chancellor Dumke also noted that "sensitive items such as disciplinary or criminal actions are not included" in the system.

C. THE THREAT TO PRIVACY AND FREEDOM IN A COMPUTER ENVIRONMENT

Our society today is unprepared for the impact of information technology upon our people and their institutions The fear of the snooping, privacy invading, impersonal computer, while often illustrated in extreme and unrealistic terms, is justified until government acts to provide certain safeguards to cushion the impact

California laws that govern the collection and dissemination of personal information in the hands of government were, for the most part, written in random fashion over many years Almost none were conceived with computer technology in mind Information gathered by private firms remains almost totally free from regulation by government Only in the last decade has personal information become a commodity in the market place and the lifeblood of government bureaucracy

In the American society of 1970, information is power As Committee Chairman Bagley put it, "The new badge of authority in the latter half of the 20th century is who has access to the computer"

Today's urbanized society is basically an impersonal one and privacy is important to citizens of our urban areas Small town America of a generation past never worried much about privacy Few were concerned about local gossip for there was security in knowing that you were known and that you knew others

In modern metropolitan America, however, we have seen the process of depersonalization occur While we have attained a greater degree of individual privacy (or isolation) from those around us, we have also been forced to formalize our relations with institutions that we depend on for existence the bank, the Department of Motor Vehicles, the telephone company, etc We know today that we are a number and/or a name in countless items of record in numerous files (both traditional and computerized)

Many Californians seem to resent this inevitable loss of privacy even as they enjoy the enumerable benefits that flow from the computer. While we must reject some of these concerns as sentimentality, the yearning for a life impossible to live in an inter-dependent society, we cannot neglect the opportunity to review the various applications of computer technology and to establish certain practical safeguards against the unwarranted invasion of privacy of California's citizenry.

Specifically then, what are the problems and what are the proposed solutions?

Perhaps the greatest concern surrounds the inevitable establishment of individual files or dossiers that contain all the information that government (or private firms) have collected about us In the past, only a thorough private investigator could develop a file of information available through public records

Now, because of the economy made possible by the tremendous memory storage capacity of the computer, it is obvious that all items of record can be placed in a few data banks and can be accessed by whatever agency or individual is capable of gaining time on an available terminal key board.

No longer, then, will information about us be scattered and difficult to collect Today, networks of computer systems allow the record we compile to accumulate and stay with us, however mobile we may be In addition, we must also note that government programs, because they are increasingly oriented toward social services, demand more personal information from almost everyone. Administrators, in and out of government, who must deal with large groups of people are starved for enough data to make the improvements in their program that the taxpaying public or their clients demand The computer makes the collection and organization of the data possible and creates the need for more and more information Witness the increasingly lengthy census questionnaire, which continues to grow in answer to very real needs of public and private planners

Mr Robert Sorensen, Director of Management Services for the County of Santa Clara, expressed his concern for privacy in light of the development of centralized files containing data on individuals in testimony delivered on September 2, 1969 He said, "It seems just and inevitable in a democratic society that citizens be afforded some basic rights concerning personal information which is being maintained Legislation should provide every citizen with the right to obtain a printed copy of any computer file which contains personal information The citizen should also have the right to obtain a list of the organizations or individuals that have made inquiry into any such personal information file Further, the government agency or private organization maintaining such files should assume legal responsibility for the accuracy of the information being maintained about private citizens "

Others offering testimony have suggested that individuals be allowed to correct or add to computerized files that pertain to them Certain exceptions involving investigatory files of law enforcement agencies or psychiatric reports kept on computers, for example, would probably be necessary in order to protect the public and/or the individual from harm

Some would restrict access to individual files only to government agencies, forcing all others to gain the approval of the individual in question Refusal, for example, to allow an insurance investigator access to his motor vehicle record might preclude an individual from receiving auto insurance, but that person would at least limit the dissemination of his record information to those that he wished to see it

Audit-trails or logs were suggested to the committee as a practical way of monitoring the users of files maintained by public agencies Each

attempt to access a computer would be recorded The time and source of the query could then be used as a management tool to assess costs and to measure workload At the same time, unauthorized intrusion would be discouraged because of the record which could be verified at any time Individuals with personal files would be able to know who had requested information about them

To quote Advisory Committee Member Lance Hoffman of the Stanford Linear Accelerator Center, "Computer systems have the ability to monitor all accesses to data Using the computer, we can also audit all attempts to access certain sensitive information, unusual activity levels involving a certain file, attempts to write in a protected file, attempts to perform restricted operations such as copying files, extensively long periods of use, etc This auditing capability also provides a method for recording the identification of the requestor and the nature of each request about a particular person The audit trail can then be examined by appropriate authorities to determine if any violations have occurred and suitable steps can be taken to correct the situation "

Certain privacy safeguards are technical in nature and are controversial because of their costs rather than their policy implications Although questions of law are key elements in protecting personal information, no data is truly private unless it is manipulated and stored by computer systems that are physically protected from inadvertent or purposeful intrusion

It is possible to tap into computer memory cores electronically Along with the establishment of penal sanctions, similar to those involving the tapping of telephone wires, witnesses have suggested that personal data should be required to be filed in "scrambled" or coded form so that only those knowing the code could "clear" the information for normal use

A variety of security systems have been suggested as standard, mandatory equipment whenever sensitive data is stored in State EDP systems Ranging in sophistication from passwords, keys and badges to inquiry identification by the use of the computer hardware itself, the proper method, judged by the cost of the security system and the value of the data to be protected, can be found.

D. DRIVER INFORMATION: A PRECURSOR OF THE PRIVACY CONFLICT

Since 1923, California's Vehicle Code has maintained that records relating to the licensing and registration of automobiles are open to public inspection

In 1941, the code was amended to exempt records relating to an individual's physical or mental condition from public inspection (and we assume from the inspection of investigators attempting to verify statements made in insurance applications)

Today, D M V records continue to be available under the terms of the Public Records Act of 1968 Section 1808 5 of the Vehicle Code continues to make the traditional exception to the general law relating to physical and mental condition

While the law has remained, in effect, unchanged through the years, controversy has surrounded the issue on all sides Some legislators have attempted to open all records to public inspection only to be successfully

opposed by the Disabled American Veterans and other similar organizations Other members of the Legislature have attempted to close *all* the files of the Department The battle has raged back and forth, continuing into the 1970's

One new element has been added The computer now stores and disseminates the vast amount of data which relates to individual licenses and automobile registrations Information can now be sold in bulk form (by computer tape) as well as through the traditional method of individual request

While the ease and low cost of handling the data has benefited all the various users of D M V data, one more recent application has been developed as a result Lists of individuals, the life-blood of the direct-mail industry which is responsible for $35 billion worth of business in the U S. in one year, were, until recently, available at the price of reproducing a computer tape

In addition to the development of mailing lists, other uses of personal license and registration data have been made by

1. Industrial planners for automobile and auto parts manufacturers and oil distributors.
2. Automobile dealers and parts distributors
3. Transportation planners
4. Credit, insurance and employment investigators.
5. Law enforcement investigators
6. Those seeking personal identification or searching for missing persons, delinquent debtors or accident participants
7. Manufacturers recalling defective automobiles
8. Members of the curious public
9. Distributors of free, unsolicited magazines

According to the Office of the Legislative Analyst, during 1968–69, the Department sold 2,500,000 drivers license items for a profit of $20,649, and 44,459,170 items from vehicle registration files just breaking even in the process.

On October 31, 1969, Governor Reagan, by executive order, ended the bulk sale of driver license information The Department continues to permit the sale of individual requests for license data and bulk sale of auto registration information which is, by far, the most popular data maintained on file.

In this regard, the Legislative Analyst, testifying at the December 18 hearing of the committee, made the following statement

> "We believe there are serious questions regarding the wisdom of selling bulk vehicle registration information The most important item in the driver license file, the name and address, is still available on the vehicle registration information The State, by providing the name and address of millions of Californians, greatly contributes to the increasing amounts of unsolicited so-called 'junk' mail now being delivered every day."

In 1969, AB 1081 (Campbell) attempted to prevent the bulk sale of license and registration data Assemblyman Campbell's bill was directed, in part, at those who have bought D M.V. files for the purpose

of bulk mailing solicitation Industry spokesmen maintain that only 1½% of all names used are obtained from D M V. files

His bill would also have prevented other uses of the information (market research, for example) that are possible only by buying the entire record file of the Department The obvious questions that must be answered are

1 Should the State aid the direct mail industry in the development of mailing lists by selling information in bulk form?
2 If records are public, who shall limit their distribution or regulate the format in which they are sold?
3 If information is sold in bulk, how much revenue should the data return to the Department? Enough to defray costs or enough to provide a profit?
4. If information is sold for purposes of mailing list development, what controls should apply?

Another issue related to the continuing dependence upon computers was the subject of AB 1440 (McCarthy) which gave each driver the right to know what non-governmental agency had inquired about his driver record The Assemblyman's legislation was an attempt to prevent errors in personal identification from increasing or cancelling insurance premiums, preventing a professional driver from obtaining work or, in general, causing the unwarranted loss of a license The Teamster's Union and other private individuals have indicated that computers maintained by the Department of Motor Vehicles or the courts have sometimes confused the names of individuals found guilty of illegal driving activity and penalized the unsuspecting innocent.

In addition to the impact of computers, as seen in bulk sales of names and in incorrect and impersonal identification, the specter of centralized files or individual dossiers has been raised The same driver license and registration data that allows direct mail salesmen to pinpoint very specific markets by developing an individual profile based on the age, make and model of a car, when combined with other public records currently available (assessment files, for example), can be a highly effective element in the creation of an individual file

It is not unlikely that the first comprehensive data bank containing a variety of bits of information on individuals, identified by name or social security number, will be developed by private industry using information made available by several different levels of government and numerous departments at each level

E. THE ROLE OF GOVERNMENT ADMINISTRATION

The many social and legal problems, both real and imaginary, that face California State and local government as it continues to plan and place on stream more advanced computer systems, need increased attention from those agencies already empowered to deal with them. New agencies may need to be created as well

The Office of Management Services is today concerned with developing technical standards which it has the authority to apply to information systems in State government However, the various Departments continue to develop their own EDP facilities in a relatively autonomous fashion, without a great deal of concern for the privacy issue, particu-

larly at the Departmental level As more central authority for the development and review of State EDP facilities is established, a by-product should be increased attention to standards of confidentiality and access The Office of Management Services or its successor agency must be strengthened in order to provide the legal studies related to data sharing and classification that are as important as the technical considerations involved in the establishment of information systems

Both the executive branch and the legislative must begin to determine policy and fill the legal gaps that exist, particularly with reference to the sharing of information between departments and levels of government and the private sector Classifying and protecting the information collected by government involves difficult decisions and they should be made by those elected officials at the State and local level

The Intergovernmental Board on EDP must also be strengthened by the addition of sufficient staff resources to play the major role of coordination and education in this area I believe also that public and legislative members should be added to the Board to broaden its horizons and increase its capacity to deal with broader issues At some point in the future, the Board might fulfill a quasi-judicial function, adjudicating between citizens and government whenever major issues regarding public access or personal privacy arise in California It could play a major role in influencing legislation and in anticipating problem areas in order to advise the Governor and appropriate legislative committees in advance

The Intergovernmental Board could monitor allegations of privacy invasion or public access infringement to determine what the parameters of the problem really are The huge and fundamental job of conducting an inventory of the information resources that we have in California State and local government and applying some uniform guidelines of data classification to certain sensitive files might eventually fall to the Board as well It can only carry out these tasks, however, if it has the budget support These things must be done, and rather than continue to reorganize and rename committees, boards, offices and agencies, we should strengthen existing agencies and make them work.

At the local level cities and counties must develop their own broadly-based advisory boards similar to those in Orange and Santa Clara Counties to help administrators and elected officials prepare themselves for the difficult decisions and educate the interested public to the costs and benefits, in personal terms, of the development of EDP facilities Above all, the public must be informed continually of all that's involved If government agencies will take the trouble to allay fears and anticipate concerns, regardless of their justification or source, California will not be faced with a reaction against the development of computer systems Elected officials won't promote it and the public won't accept it

FINDINGS OF THE COMMITTEE REGARDING COMPUTERIZATION AND ITS IMPACT ON PERSONAL PRIVACY

A The drive to protect the public's right of access to government records, which culminated in the passage of the California Public Records Act of 1968, made a valuable contribution toward the clarification of a classical requirement of democracy. However, the

revolutionary influence of the computer has transformed the term "public information" and limitations on the new uses of personal data long considered a matter of public record must be considered in the light of the impact of Electronic Data Processing

B Although there is probably relatively little privacy invasion currently taking place in state and local government, an agency of government must be actively responsible for monitoring and investigating whatever allegations are made and must conduct a thorough inventory to determine what and how personal data is being maintained by government. This inventory must be kept current.

C. In order to allow for the orderly development of EDP in California public agencies, legal and technical safeguards must be considered and initiated and the public bodies responsible (Office of Management Services and the Intergovernmental Board on EDP) for protecting the confidentiality of personal data must take a more active role in educating the public to the realities of the computerized society.

D During the next decade, the issue of confidentiality, both in a legal and technical sense, will be decided As computer system capacity increases and as data based files are linked together, the problem of individual dossiers, bulk sales of personal data and erroneous computerized records will be more acute The proper state and intergovernmental agencies, including the Legislature, must begin *now* to prepare for these problems by making the difficult policy decisions and planning for the technical accommodations that will be needed. These items should be budgeted and be considered an integral part of the future development of EDP in California. Neither issues which divide various levels and departments of government nor the high cost of computer procurement should be allowed to divert the attention of California government from the issue of privacy.

RECOMMENDATIONS

1 The California Public Records Act should be amended to.

a. Allow every person to read and copy files pertaining to him.

b Allow every person to add information to or correct, upon provision of proof, data pertaining to him.

c Allow every individual to know who requested information regarding data pertaining to him whenever a record of the request is made; provide that a record of request or audit-trail be kept on all computerized personal files now in existence by 1975 and on all computer installations to be installed in the future beginning immediately upon effective date of the bill

d Require all state departments to file a statement (to be updated every six months) listing all personal information maintained in computer systems with the Office of Management Services, or its successor agency.

2 The Penal Code penalties relating to wiretapping should be broadened to cover electronic intrusion into computer systems

3 A misdemeanor penalty should be imposed on any individual attempting to obtain personal data from computerized files by deceit.

4. The membership of the Intergovernmental Board on EDP should be expanded to include two public members appointed by the Governor and a Member of the Senate and Assembly appointed by their respective leaders. This expanded body should be given specific authority and responsibility to deal with issues of confidentiality on a statewide basis.
5 The Office of Management Services should be required to report to the Legislature annually on its efforts to protect the confidentiality and security of personal data maintained by the State of California.
6. No further bulk sales of identifiable personal data should be permitted Individual inspection should not be prevented, nor should sale of data in aggregate form. Auto registration and license information of the Department of Motor Vehicles would therefore no longer be made available for sale in bulk form except when unrelated to individuals.

APPENDIX A

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS

GENERAL

	Subject	Code Section	Code
A	Aeronautics	21693	Public Utilities
	Appeal, Personnel Board	18952	Government
	Applicant	1619	Business and Professions
	Applications	10850	Welfare & Institutions
	Application, Examination	15934	Government
	Application, License	2253	Public Resources
	Appraisal Data	1850	Revenue & Taxation
	Appraisal, Land	34283	Health & Safety
	Assessment Ratios	754	Revenue & Taxation
		1818	Revenue & Taxation
	Audit	04613	Agricultural
	Audit, Banking Department	8754	Financial
B			
C	Children, Adoption	227	Civil
	Children, Custody	227	Civil
	Cigarettes	30455	Revenue & Taxation
	Consumption, Mineral Materials	2207 1	Public Resources
	Copies, Certified	8532	Business & Professions
		1803	Code of Civil Procedure
	Credential	13128	Education
D	Decision, Personnel Board	19582	Government
	Districts, Reclamation	27100	Government
	Districts, Special	26910	Government
E	Executive Session	997	Education
F	Fertilizers, Commercial	14583	Agricultural
	Financial Statements	14312	Government
	Financial Statements	6880	Business & Professions
	Financial Statements	8019 16	Public Resources
	Financial Statements, Water Districts	72209	Water
	Fish	7923	Fish & Game
G			
H	Hospital Order	11166 01	Health & Safety
I	Income, Gross and Net	16507	Revenue & Taxation
	Informants	152	Labor
	Information, Non-Statutory	408	Revenue & Taxation
	Insurance Information	16005	Vehicle
J			
K			
L	Labor Disputes	65	Labor
	Laboratory Reports	3227	Health & Safety
	Laboratory Reports	79 05	Civil
	Laboratory Reports	79 09	Civil
	Leases, Oil & Gas	6826	Public Resources
	Lessee	3762	Public Resources
	Licenses, Applications for	2253	Public Resources
	Licenses, Duration of	2254	Public Resources
	Licenses, Filing Deadline for	2255	Public Resources
	Licenses, Fishing	7923	Fish & Game
	Licenses, Qualifications for	2252	Public Resources
	Licenses, USAEC	24771	Health & Safety
	Licensure	6876 1	Business & Professions
	Licensure	2250	Public Resources
	Licensure Tax	2251	Public Resources
	Life Diploma	13128	Education
M	Marketing Order Hearing	58782	Agricultural
	Marketing Program	59616	Agricultural
	Marketing Studies	2207 1	Public Resources
	Memoranda, Carriers	4049	Public Utilities
	Memoranda, Highway Carriers	3709	Public Utilities
	Memoranda, Household Goods Carrier	5228	Public Utilities
	Milk Products Sale Bidding	62431	Agricultural
	Minerals, Agricultural	14583	Agricultural
	Minutes, Water District Board	74228	Water

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

GENERAL—Continued

	Subject	Code Section	Code
N	Narcotics	11166 01	Health & Safety
	Narcotics	4052 1	Business & Professions
	Nautical Casualties	656	Harbors & Navigation
O			
P	Parimutuel Wagering	3986	Agricultural
	Permits, USAEC	25771	Health & Safety
	Pest Control	8551	Business & Professions
	Poisons, Economic	12932	Agricultural
	Property Statement	461	Revenue & Taxation
Q	Questionnaires	5019 16	Public Resources
R	Records, Birth, Death, Marriage, Amdmt Thereto	10403	Health & Safety
	Records, Copies	3234	Public Resources
	Records, Copies	3752	Public Resources
	Records, Coroner's	27462	Government
	Records, Coroner's in lieu thereof	27463	Government
	Records, Examination	1019	Business & Professions
	Records, Gift Tax	16564	Revenue & Taxation
	Records, Income Tax	19286	Revenue & Taxation
	Records, Inheritance Tax	14813	Revenue & Taxation
	Records, Inheritance Tax	14814	Revenue & Taxation
	Records, Licensee's	2265	Public Resources
	Records, Licensee's Inspection Thereof	2266	Public Resources
	Records, Pupil	10751	Education
	Rehabilitation	17006	Welfare & Institutions
	Rehabilitation	18491	Welfare & Institutions
	Reports	7080	Water
	Reports, Annual	12932	Agricultural
	Reports, Annual (Banking)	8709	Financial
	Reports, Annual (Banking)	18610	Financial
	Reports, Laboratory	3227	Health & Safety
	Reports, Laboratory	79 05	Civil
	Reports, Laboratory	79 09	Civil
	Reports, Performance	19302	Government
S	Security Deposits	16005	Vehicle
	Services, Cost of	19288	Revenue & Taxation
	Services, Cost of	26454	Revenue & Taxation
	Shippers	65503	Agricultural
	Statistics	19289	Revenue & Taxation
	Statutes	26455	Revenue & Taxation
	Survey Permits	6326	Public Resources
T	Tax, Gift	16564	Revenue & Taxation
	Tax, Income	19286	Revenue & Taxation
	Tax, Inheritance	14813	Revenue & Taxation
	Tax, Inheritance	14814	Revenue & Taxation
	Tax, Motor Fuel	8255	Revenue & Taxation
	Tenants	34283	Health & Safety
	Textbooks	9254	Education
U			
V	Vehicles, Law Enforcement	5003	Vehicle
	Vehicle Registration	20012	Vehicle
	Vouchers	12573	Government
W	Wells, Abandoned or Deserted	3234	Public Resources
	Wells, Abandoned or Deserted	3752	Public Resources
	Wells Transferred	3752	Public Resources
X			
Y			
Z			

GOVERNMENT AGENTS AND AGENCIES

A	Agricultural Fair Commission, Board of Directors	3986	Agricultural
	Agriculture, Director of	12932	Agricultural
	Agriculture, Director of	58761	Agricultural
	Agriculture, Director of	58782	Agricultural
	Agriculture, Director of	59616	Agricultural
	Agriculture, Director of	61444	Agricultural

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

GOVERNMENT AGENTS AND AGENCIES—Continued

	Subject	Code Section	Code
	Agriculture, Director of	62583	Agricultural
	American Red Cross	227	Civil
	Appointments	18373	Government
	Appointments	19302	Government
	Assembly, California State	19284	Revenue & Taxation
	Assembly, California State	26453a	Revenue & Taxation
	Assessor	408	Revenue & Taxation
	Assessor	451	Revenue & Taxation
	Assessor	646	Revenue & Taxation
	Atomic Energy Commission, U S	25771	Health & Safety
	Attorney General	11105	Penal
	Attorney General	12514	Government
	Attorney General	12525	Government
	Attorney General	12537	Government
	Attorney General	12572	Government
	Attorney General	12573	Government
	Attorney General	12589	Government
	Attorney General	5009	Vehicle
	Attorney General	19285	Revenue & Taxation
	Auditor	26453b	Revenue & Taxation
	Auditor General	26910	Government
	Auditor General	10525	Government
B	Banking Department	254	Financial
	Banking Department, Commissioner	17417	Financial
	Banking Department, Commissioner	5023	Financial
	Banking Department, Commissioner	8709	Financial
	Banking Department, Commissioner	8710	Financial
	Banking Department, Commissioner	8754	Financial
	Banking Department, Commissioner	8807	Financial
	Banking Department, Commissioner	18610	Financial
	Beef Council, California	64532	Agricultural
	Board of Equalization	754	Revenue & Taxation
	Board of Equalization	833	Revenue & Taxation
	Board of Equalization	1818	Revenue & Taxation
	Board of Equalization	1820	Revenue & Taxation
	Board of Equalization	7056	Revenue & Taxation
	Board of Equalization	9255	Revenue & Taxation
	Board of Equalization	10406	Revenue & Taxation
	Board of Equalization, Members	30455	Revenue & Taxation
	Board of Supervisors	15619	Government
		27100	Government
C	Cemetery Board	9632	Business & Professions
	Chief of Police	5003	Vehicle
	Clerk, County	27164	Government
	Clerk, County	10361	Health & Safety
	Clerk, County	131 3	Code of Civil Procedure
	Controller	12513	Welfare and Institutions
	Controller	12573	Government
	Controller	15619	Government
	Controller	8255	Revenue & Taxation
	Controller	10406	Revenue & Taxation
	Controller	16507	Revenue & Taxation
	Controller	16554	Revenue & Taxation
	Controller	16563	Revenue & Taxation
	Controller	14814	Revenue & Taxation
	Controller	14813	Revenue & Taxation
	Coroner	27463	Government
	Coroner	27464	Government
	County Clerk	27464	Government
	County Clerk	10361	Health and Safety
	County Clerk	131 3	Code of Civil Procedure
	County Hospital	12513	Welfare and Institutions
	County Librarian	4052 1	Business & Professions
	County Recorder	9254	Education
	County Recorder	10445	Health & Safety
	County Sheriff	10403	Health & Safety
	County Superintendent of Schools	5003	Vehicle
	Credentials, Committee of	9254	Education
	Criminal Identification and Investigation, Bureau of	13104 1	Education
	Criminal Identification and Investigation, Bureau of	13128	Education
		6876 1	Business & Professions
D	Dental Examiners, Board of	1619	Business & Professions
	Department Officers	11183	Government
	District Attorney	10850	Welfare and Institutions
	District Attorney	11478	Welfare and Institutions

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

GOVERNMENT AGENTS AND AGENCIES—Continued

	Subject	Code Section	Code
E	Education, Department of	13104 1	Education
	Education, Department of	2714	Unemployment Insurance
	Education, State Board of	13128	Education
	Equalization, Board of	754	Revenue & Taxation
	Equalization, Board of	833	Revenue & Taxation
	Equalization, Board of	1818	Revenue & Taxation
	Equalization, Board of	1820	Revenue & Taxation
	Equalization, Board of	7056	Revenue & Taxation
	Equalization, Board of	9255	Revenue & Taxation
	Equalization, Board of	10406	Revenue & Taxation
	Equalization, Board of	30455	Revenue & Taxation
F	Federal Home Loan Bank Board	8807	Financial
	Federal Savings and Loan Insurance Corporation	8807	Financial
	Fish and Game Commission	7923	Fish and Game
	Fish and Game, Department of	9022	Fish and Game
	Franchise Tax Board	19282	Revenue & Taxation
	Franchise Tax Board	19285	Revenue & Taxation
	Franchise Tax Board	19288	Revenue & Taxation
	Franchise Tax Board	26451	Revenue & Taxation
	Franchise Tax Board	26453c	Revenue & Taxation
	Franchise Tax Board	26454	Revenue & Taxation
	Franchise Tax Commissioner	16507	Revenue & Taxation
G	Geologist, State	2207 1	Public Resources
	Geothermal Resources Board	3753	Public Resources
	Government, U S	657	Harbors and Navigation
	Government, U S	62431	Agricultural
	Governor	15619	Government
	Governor	7056	Revenue & Taxation
	Governor	9255	Revenue & Taxation
	Governor	10409	Revenue & Taxation
	Governor	30455	Revenue & Taxation
	Grand Jury	27100	Government
H	Harbors and Watercraft, Dept of	656	Harbors and Navigation
	Highway Patrol, California	20012	Vehicle
	Highway Patrol, California	20014	Vehicle
	Home Loan Bank Board, Federal	8807	Financial
	Home Owners Loan Corporation	8807	Financial
	Hospital, County	4052 1	Business & Professions
	Housing Authority Commissioners	34283	Health & Safety
I	Industrial Accident Commission	6413	Labor
	Industrial Relations, Department of	65	Labor
	Inheritance Tax Attorneys	14813	Revenue & Taxation
	Internal Revenue Commissioner	19286	Revenue & Taxation
	Internal Revenue Commissioner	26453c	Revenue & Taxation
J			
K			
L	Labor Statistics and Research, Division of	6413	Labor
	Lands Commission, State	6826	Public Resources
	Legislative Audit Bureau	10525	Government
	Legislature	10361	Health & Safety
	Legislature	14026	Education
	Librarian, County	9254	Education
M	Manpower, Automation, and Technology Commission	174	Labor
	Military, U S	227	Civil
	Motor Vehicles, Department of	5003	Vehicle
	Motor Vehicles, Department of	16005	Vehicle
	Motor Vehicles, Department of	20012	Vehicle
	Motor Vehicles, Department of	20013	Vehicle
	Motor Vehicles, Department of	20014	Vehicle
	Motor Vehicles, Department of	40333	Vehicle
	Mineralogist, State	2253	Public Resources
	Mineralogist, State	2255	Public Resources
	Mineralogist, State	2266	Public Resources
N			

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

GOVERNMENT AGENTS AND AGENCIES—Continued

	Subject	*Code Section*	*Code*
O	Officer, Public	1893	Code of Civil Procedure
	Oil and Gas Commissioners, Board of	3752	Public Resources
	Oil and Gas Commissioners, District Board of	3234	Public Resources
	Oil and Gas Supervisor, State	3234	Public Resources
	Oil and Gas Supervisor, State	3752	Public Resources
	Oil and Gas Supervisor, State District Deputy	3234	Public Resources
	Oil and Gas Supervisor, State District Deputy	3752	Public Resources
P	Parole Agents	3046	Penal
	Personnel Board, State	18934	Government
	Personnel Board, State	18952	Government
	Personnel Board, State	19402	Government
	Personnel Board, State	19582	Government
	Personnel Board, State	20134	Government
	Pharmacy, Board of	11166 01	Health & Safety
	Pharmacy, Board of	4052 1	Business & Professions
	Police, Chief of	5003	Vehicle
	Police Officer	11105	Penal
	Probation Officer	11478	Welfare & Institutions
	Probation Officer	131 3	Code of Civil Procedure
	Probation Officer	1203 10	Penal
	Public Defender	27710	Government
	Public Defender	11105	Penal
	Public Health, Department of	25771	Health & Safety
	Public Health, Department of	410	Health & Safety
	Public Health, Department of	10005	Health & Safety
	Public Health, Department of	79 05	Civil
	Public Utilities Commission	315	Public Utilities
	Public Utilities Commission	583	Public Utilities
	Public Utilities Commission	3709	Public Utilities
	Public Utilities Commission	21693	Public Utilities
	Public Works, Department of	20014	Vehicle
Q			
R	Recorder, County	10445	Health & Safety
	Recorder, County	10403	Health & Safety
	Red Cross, American	227	Civil
	Registrar, Local	10445	Health & Safety
	Registrar, State	10361	Health & Safety
	Registrar of Vital Statistics, Local	10403	Health & Safety
	Registrar of Vital Statistics, State	10445	Health & Safety
	Registrar of Vital Statistics, State	10403	Health & Safety
	Registrar of Vital Statistics, State	10361	Health & Safety
	Retirement Board, Beneficiaries	14026	Education
	Retirement Board, Members	31532	Government
S	Savings and Loan Insurance Corporation, Federal	8807	Financial
	School Board	9254	Education
	School Board	927	Education
	Schools, County Superintendent of	9254	Education
	Secret Agents	12572	Government
	Senate, California State	19284	Revenue & Taxation
	Senate, California State	28453a	Revenue & Taxation
	Sheriff, County	5003	Vehicle
	Social Welfare, Department of	12006	Welfare & Institutions
	Social Welfare, Department of	12513	Welfare & Institutions
	Social Welfare, Department of	227	Civil
	Special Agents	12572	Government
	State Bar of California	6087	Business and Professions
	Structural Pest Control Board	8532	Business and Professions
	Structural Pest Control Board	8534	Business and Professions
	Superintendent of Public Instruction, State	10751	Education
	Supervisors, Board of	1820	Revenue & Taxation
	Supervisors, Board of	17006	Welfare & Institutions
	Supervisors, Board of	18491	Welfare & Institutions
	Supreme Court of California	6087	Business & Professions
	Surveyor	27551	Government
T	Table Grape Commission, California	65603	Agricultural
	Taxing Agency	646	Revenue & Taxation
	Treasurer	27100	Government
	Tuberculosis, Bureau of	410	Health & Safety
U			
V	Veterans Board	85	Military & Veterans
	Vocational Rehabilitation, Bureau of	2714	Unemployment Insurance

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

GOVERNMENT AGENTS AND AGENCIES—Continued

	Subject	Code Section	Code
W	Water District, Board of Directors	74228	Water
	Water District, Board of Directors	74229	Water
X			
Y			
Z			

HEALTH AND WELFARE

A	Accident Assistance	856	Harbor & Navigation
	Accident Reports	315	Public Utilities
	Accident Reports	20012	Vehicle
	Accident Reports	20013	Vehicle
	Accident Reports	20014	Vehicle
	Autopsy Records	27491 4	Government
B	Birth	10403	Health & Safety
	Birth Certificates	10445	Health & Safety
	Birth Certificates	10403	Health & Safety
	Birth Certificates	10439	Health & Safety
	Birth Certificates	10444	Health & Safety
	Birth Certificates	10066	Health & Safety
	Birth Certificates, New	10450	Health & Safety
C	Children	1747	Code of Civil Procedure
	Children, Adoption	227	Civil
	Children, Custody	227	Civil
	Collection Agencies	6876 1	Business & Professions
	Coroner's Inquest	27464	Government
	Coroner's Register	27463	Government
	Coroner's Register, in lieu thereof	27463 5	Government
D	Death	10403	Health & Safety
	Death, of a Prisoner	12525	Government
	Death Certificates	10066	Health & Safety
	Disposal of Remains	27464	Government
E			
F			
G			
H	Health Care Service Plans	12537	Government
I	Injury Report	6413	Labor
J			
K			
L			
M	Marriage	10403	Health & Safety
	Medical Records	2714	Unemployment Insurance
N			
O			
P	Paternity, Established	10450	Health & Safety
	Physicians and Surgeons	6413	Labor
	Prisoner, Death of	12525	Government
	Public Morals	1747	Code of Civil Procedure
	Public Relief	17006	Welfare & Institutions
	Public Relief	18491	Welfare & Institutions
	Public Safety	21693	Public Utilities
	Public Social Services	10850	Welfare & Institutions
	Public Social Services	11478	Welfare & Institutions
	Pupil, Physical Defects of	11821	Education
Q			
R			
S	Sex Offenders	290	Penal

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

HEALTH AND WELFARE—Continued

	Subject	Code Section	Code
T			
U			
V			
W			
X			
Y			
Z			

JUDICIAL

A	Administrative Hearings	11517	Government
	Alias, of Deceased	27463	Government
	Appeal	12908	Welfare & Institutions
	Appeal, Personnel Board	18952	Government
B			
C	Civil Proceeding	5019 16	Public Resources
	Conciliation Court	1747	Code of Civil Procedure
	Coroner's Inquest	27491	Government
	Court Order	10447	Health & Safety
	Court Order	10439	Health & Safety
	Court Order	10751	Education
	Court Order	227	Civil
	Court Order	1619	Business & Professions
	Court Order	8534	Business & Professions
	Court Order	58781	Agricultural
	Court Order	59202	Agricultural
	Court Order	19293	Revenue & Taxation
	Court Order	26455d	Revenue & Taxation
	Court Proceeding	3234	Public Resources
	Court Proceeding	3752	Public Resources
	Criminal Proceeding	20015	Vehicle
	Criminal Proceeding	26453a	Revenue & Taxation
	Criminal Proceeding	3234	Public Resources
	Criminal Proceeding	5019 16	Public Resources
	Criminal Proceeding	3752	Public Resources
	Custody Hearing	227	Civil
D			
E	Evidence	6413	Labor
	Evidence	656	Harbors & Navigation
	Evidence	315	Public Utilities
	Evidence	21693	Public Utilities
	Evidence	6880	Business & Professions
	Evidence	8532	Business & Professions
	Evidence	20013	Vehicle
	Evidence	20014	Vehicle
	Evidence	40833	Vehicle
	Evidence	3234	Public Resources
	Evidence, Documentary	4552 1	Penal
F	Felony	14813	Revenue & Taxation
	Felony	16563	Revenue & Taxation
G	Grand Jury	27100	Government
	Grand Jury	18491	Welfare & Institutions
	Grand Jury	1820	Revenue & Taxation
H	Hearing	12908	Welfare & Institutions
	Hearing Record	58782	Agricultural
I			
J	Judicial Proceeding	50616	Agricultural
	Judicial Proceeding	61444	Agricultural
	Judicial Review	12908	Welfare & Institutions
	Juvenile Court	827	Welfare & Institutions

INDEX TO CODE SECTIONS RELATING TO PUBLIC RECORDS—Continued

JUDICIAL—Continued

	Subject	*Code Section*	*Code*
K			
L			
M	Misdemeanor	15619	Government
	Misdemeanor	13194 1	Education
	Misdemeanor	9256	Revenue & Taxation
	Misdemeanor	10406	Revenue & Taxation
	Misdemeanor	30455	Revenue & Taxation
	Misdemeanor	10850	Welfare & Institutions
	Misdemeanor	79 09	Civil
	Misdemeanor	2111	Unemployment Insurance
	Misdemeanor	6319	Labor
	Misdemeanor	152	Labor
	Misdemeanor	583	Public Utilities
	Misdemeanor	3709	Public Utilities
	Misdemeanor	4049	Public Utilities
	Misdemeanor	5228	Public Utilities
	Misdemeanor	19282	Revenue & Taxation
	Misdemeanor	19287	Revenue & Taxation
	Misdemeanor	26451	Revenue & Taxation
	Misdemeanor	26453c	Revenue & Taxation
N			
O			
P	Parole	10751	Education
	Parole Board	3046	Penal
	Parolees	3107	Penal
	Paternity, Established	10450	Health & Safety
	Prisoner, Death of	12325	Government
	Probation	827	Welfare & Institutions
	Probation	131 3	Code of Civil Procedure
	Probation	1203 10	Penal
	Probationer	290	Penal
Q			
R	Request for Information	857	Harbors & Navigation
S	Search Warrant	1534	Penal
	Service, Return of	537 5	Code of Civil Procedure
	Sex Offender	290	Penal
	Subpoena, Constructive	12589	Government
	Supporting Documents, Case on File	11295	Welfare & Institutions
	Supporting Documents, Case on File	12008	Welfare & Institutions
	Suspension, by Personnel Board	19582	Government
T	Tax deficiency Suit	26453b	Revenue & Taxation
	Tax Refund Suit	19285	Revenue & Taxation
	Testimony	4852 1	Penal
	Transcripts	938 1	Penal
U			
V	Violations, State Vehicles	5003	Vehicle
W	Warrant, Search	1534	Penal
X			
Y			
Z			

APPENDIX B

LEGISLATIVE COUNSEL OF CALIFORNIA

Los Angeles, October 9, 1969

HONORABLE WILLIAM T BAGLEY
4016 State Capitol
Sacramento, California 95814

PRIVACY—#17364

Dear Mr Bagley·

QUESTION

You have asked us to describe the right of privacy as it exists in California

OPINION AND ANALYSIS

By way of introduction the following statement from California Jurisprudence, Second Edition, is relevant

> "The increased complexity and intensity of modern civilization and the development of man's spiritual sensibilities have rendered him more sensitive to publicity and increased his need of privacy, while technological improvements in means of communication have more and more subjected the intimacies of his private life to exploitation by those who pander to commercialism or to prurient or idle curiosity A legally enforceable right of privacy is a proper protection against this type of encroachment on the personality of the individual While the early law gave redress only for physical interference with life and property, it is now recognized that a man's spiritual nature also needs protection, and that his feelings as well as his limbs should be inviolate In the formative period of the common law, before the day of newspapers, radio, and photography, when life was simpler and human relations more direct, the individual could himself adequately protect his privacy. Today this is impossible, and to cast the individual upon his own resources would result in relapse into a system of private vengeance and violence that civilization has outgrown A right of action for the invasion of one's privacy is recognized in this state (40 Cal. Jur. 2d p 2)

Briefly, the right of privacy can be described as the right to live one's life in seclusion, without being subjected to unwarranted and undesired publicity It is the right to be let alone (*Gill* v *Curtis Publishing* Co., 38 Cal. 2d 273) More specifically it has been described and categorized by Professor Prosser in an article in the California Law Review as follows (48 Cal L Rev 383, 389)

> "What has emerged from the decisions is no simple matter It is not one tort, but a complex of four. The law of privacy comprises four distinct kinds of invasion of four different interests of the plaintiff, which are tied together by the common name, but otherwise have almost nothing in common except that each represents an interference with the right of the plaintiff, in the phrase coined

by Judge Cooley, [citation] 'to be let alone.' Without any attempt to exact definition, these four torts may be described as follows:

"1. Intrusion upon the plaintiff's seclusion or solitude, or into his private affairs.

"2. Public disclosure of embarrassing private facts about the plaintiff.

"3. Publicity which places the plaintiff in a false light in the public eye.

"4. Appropriation, for the defendant's advantage, of the plaintiff's name or likeness." (see also *Carlisle v. Fawcett Publications, Inc.* 201 Cal. App. 2d 733, 744–748.)

The United States Supreme Court has recognized that there is an interest known as "right of privacy" which is constitutionally protected against unwarranted intrusions by government (*Griswold v. Connecticut*, 14 L. ed. 2d 510). The court, in *Griswold*, stated (at p. 514):

". . . [S]pecific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance [citation]. Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one. . . . The Third Amendment in its prohibition against the quartering of soldiers 'in any house' in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the 'right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.' The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: 'The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.'

"The Fourth and Fifth Amendments were described in *Boyd v. United States*, 116 U.S. 616, 630, 29 L. ed. 746, 751, 6 S. Ct. 524, as protection against all governmental invasions 'of the sanctity of a man's home and the privacies of life.' We recently referred in *Mapp v. Ohio*, 367 U.S. 643, 656, 6 L. ed. 2d 1081, 1090, 81 S. Ct. 1684, 84 A.L.R. 2d 933, to the Fourth Amendment as creating a 'right to privacy, no less important than any other right carefully and particularly reserved to the people.' [citation]

"We have had many controversies over these penumbral rights of 'privacy and repose.' [citation] These cases bear witness that the right of privacy which presses for recognition here is a legitimate one."

The extent of the right of privacy is not absolute, but will vary with the circumstances surrounding each individual case. Some guidance in ascertaining the limits of the right of privacy is found in *Gill v. Hearst Publishing Co.*, 40 Cal. 2d 224, wherein the court stated (at p. 228):

"The right 'to be let alone' and to be protected from undesired publicity is not absolute but must be balanced against the public interest in the dissemination of news and information consistent

with the democratic processes under the constitutional guaranties of freedom of speech and of the press [citation] The right of privacy may not be extended to prohibit *any* publication of matter which may be of public or general interest, but rather the 'general object in view is to protect the privacy of private life, and to whatever degree and in whatever connection a man's life has ceased to be private, before the publication under consideration has been made, to that extent the protection is to be withdrawn' [citation] Moreover, the right of privacy is determined by the norm of the ordinary man; that is to say, the alleged objectionable publication must appear offensive in light of 'ordinary sensibilities It is only where the intrusion has gone beyond the limits of decency that liability accrues It is only when the defendant should know that the plaintiff would be justified in feeling seriously hurt by the conduct that a cause of action exists' [citation]"

Further, it has been said (*Carlisle* v *Fawcett Publications, Inc*, supra, at p. 745)

> "A consideration of the limits of the right of privacy requires the exercise of a nice discrimination between the private right 'to be let alone' and the public right to news and information, there must be a weighing of the private interest as against the public interest"

In the process of balancing the individual's right to be let alone against the public's right to information, the courts have evolved certain specific principles These are briefly described below

First, when an individual becomes a public personage he thereby relinquishes a part of his right of privacy to the extent that the public has a legitimate interest in his doings, affairs or character (*Werner* v *Times Mirror Co*, (1961), 193 Cal App 2d 111, 117) In the leading case of *Time, Inc* v. *Hill* (1967), 17 L ed 2d 456, the United States Supreme Court stated, at page 467, with respect to the right of privacy that

> "[The] constitutional protections for speech and press preclude [the] redress [of] false reports of matters of public interest in the absence of proof that the defendant published the report with knowledge of its falsity or in reckless disregard of the truth"

Second, there can be no right of privacy in that which is already public Phrased another way, the general object of the protection of the right of privacy is to preserve the privacy of private life, and hence to whatever degree in whatever connection a man's life has ceased to be private, before the publication in question, to that extent the protection is withdrawn (*Metter* v *Los Angeles Examiner*, 35 Cal App 2d 304, 312) This case involved a photograph, printed in a newspaper, of a woman who had committed suicide by jumping off a high building located in the heart of a large city In the course of its opinion, wherein a claim of violation of the right of privacy was rejected, the court stated (at p 312)

> "It seems to us that by her own conduct Mrs Metter waived any existing right of privacy, 'relational' or otherwise, that would

> prevent the publication of her picture in connection with the newspaper story. She went to a public edifice in the heart of a large city and there ended her life by plunging from such high building. It would be difficult to imagine a more public method of self-destruction. For a brief period and in the pitiful and tragic circumstances attending her demise she became an object of public interest. Her own act brought this about. It was her own act which waived any right to keep her picture from public observation in connection with the news account of her suicide."

Third, matters of public record cannot be the basis of an action for violation of the right of privacy. Illustrative of this is the *Carlisle* case. The plaintiff therein was the former husband of a motion picture star. The marriage had taken place long before her rise to fame and was of very short duration. The article over which suit was brought appeared in a motion picture magazine and discussed the "events" leading to the marriage and its eventual annulment. In affirming a judgment dismissing the suit, the court said (at pp. 747–748):

> "Another important element present in this case is the fact that the marriage of the defendant actress with the plaintiff and the later annulment are matters of public record. As shown by the pleading itself, the marriage took place on August 1, 1942, at Reno, Nevada, and on or about December 7, 1942 the complaint for annulment was filed in the Superior Court of Merced County, the judgment of annulment was granted December 28, 1942. In *Melvin* v *Reid*, supra, 112 Cal. App. 285, 290–291, it is said:
>
> "The very fact that they were contained in a public record is sufficient to negative the idea that their publication was a violation of a right of privacy. When the incidents of a life are so public as to be spread upon a public record they come within the knowledge and into the possession of the public and cease to be private."

Fourth, the extending of knowledge of a particular incident to a somewhat larger public than actually witnessed it at the time of the occurrence is not necessarily an invasion of a person's right of privacy (*Gill* v *Hearst Publishing Co.*, supra). The latter case involved an unauthorized photograph taken of the plaintiffs, who were husband and wife, while they were seated in an affectionate pose at their place of business, a confectionery and ice cream concession in the Farmers' Market in Los Angeles. The photograph was published in a national magazine. In rejecting a claim of invasion of privacy the court said (at p. 230):

> "In short, the photograph did not disclose anything which until then had been private, but rather only extended knowledge of the particular incident to a somewhat larger public than had actually witnessed it at the time of occurrence."

In this connection two final comments should be made with respect to the case law. First, the right of privacy cannot be asserted by anyone other than the person whose privacy was invaded (*James* v. *Screen Gems, Inc.*, 174 Cal. App. 2d 650). Second, the rule in this state is that

the right of privacy may not be violated by word of mouth only As stated in *Grimes* v *Carter*, 241 Cal App 2d 694 (at pp 698–699)

> "Whatever may be the ruling in other jurisdictions, California adheres to the proposition that the right of privacy may not be violated by word of mouth only In the recent case of *Gautier* v. *General Tel Co*., 234 Cal App 2d 302 [44 Cal Rptr 404], an appeal was taken from a judgment of dismissal after a demurrer was sustained without leave to amend One of the several causes of action which the plaintiffs attempted to state was predicated upon the theory of invasion of the right of privacy, at page 309 of the opinion, the reviewing court thus disposed of that cause of action 'Count VII charges an invasion of plaintiffs' right of privacy The above right was invaded, according to the pleading, when defendant told certain unidentified persons that plaintiffs' phone was disconnected and such persons reasonably believed that plaintiffs had not paid their telephone bill We need only refer to the landmark case in California, *Melvin* v *Reid*, 112 Cal App 285 [297 P 97], for our conclusion that the above facts (if true) did not constitute a commission of the tort In *Melvin* v *Reid*, it is declared that 'The right of privacy can only be violated by printings, writings, pictures or other permanent publications or reproductions, and not by word of mouth' " (see also 19 A L R 3d 1318)

In certain particular respects, the right to privacy is specifically protected by statute in California In 1967, the Legislature added Chapter 1 5 (commencing with Sec 630) to Title 15 of Part 1 of the Penal Code, which sets forth penal sanctions and civil remedies for the invasion of privacy by the use of wiretapping and other electronic recording devices Section 630 expresses the intent of the Legislature to protect the right of privacy of the people of this state Sections 631, 632, and 636 provided, with certain exceptions, that the intentional tapping, or recording of a confidential communication through use of an electronic device is prohibited Section 635 prohibits the manufacture, sale, offer for sale, or the transfer to another of any device which is designed primarily for eavesdropping Sections 637 and 637 1 prohibit the disclosure of telegraphic or telephonic messages by those not a party thereto. Section 637 2 provides for a civil action by a person who has been injured by a violation of this chapter

Very truly yours,

GEORGE H MURPHY
Legislative Counsel

By (Mrs) Ann Mackey
Deputy Legislative Counsel

APPENDIX C

LEGISLATIVE COUNSEL OF CALIFORNIA

Sacramento, September 24, 1969

HONORABLE WILLIAM T BAGLEY
4016 State Capitol

PUBLIC RECORDS—#17344

Dear Mr. Bagley

QUESTION NO. 1

You have asked if an individual citizen may obtain an injunction preventing a public agency from making available to the public, public records or records which may be made public in the discretion of the official having custody, regardless of the accuracy of the records

OPINION NO. 1

We are of the opinion an individual cannot obtain an injunction preventing the disclosure of public records required to be made available to the public or records which may be made available in the discretion of the official having custody

ANALYSIS NO. 1

The California Public Records Act (Ch 3 5 (commencing with Sec 6250), Div 7, Title 1, Gov C) generally defines what are "public records," on what condition such records are available, and the procedure for compelling production of public records

Nowhere is there any provision in this act providing for preventing the disclosure of what would otherwise be public records because of the private rights that would be injured by disclosure

To the contrary, "public records" with certain exceptions, are required to be disclosed and public officials are given a defined discretion to make public the other records, unless their disclosure is otherwise prohibited by law (Sec 6254)

Section 526 of the Code of Civil Procedure, providing for the issuance of injunctions, specifically prohibits the issuance of an injunction to prevent the execution of a public statute or to prevent the exercise of a public office, in a lawful manner, by the person in possession of the office

In view of the fact that the statute either requires such records to be disclosed or expressly authorizes the excepted records to be disclosed, unless their disclosure is otherwise prohibited by law, we do not think disclosure of either type of "record" could be enjoined

Enjoining the disclosure of records that contain false information is also not covered in the Public Records Act

Absent any specific provision for enjoining disclosure of such records, we are of the opinion such disclosures cannot be enjoined

Such conclusion results initially from the inability to enjoin the execution of a public statute under Section 526 of the Code of Civil Procedure, as discussed above, secondly from the fact that, depending upon the types of records involved, judicial correction of the record can be made (see *Donald* v *Beals* (1881), 57 Cal 399, with respect to

erroneous recordation of mortgages, Sections 10400–10416, H. & S C., with respect to birth certificates), and thirdly from the fact that, except in extreme cases where property rights are also involved, an injunction will not be issued to prevent the disclosure of erroneous information which arguably constitutes libel or slander because to do so would be a prior restraint on the First Amendment guarantee of freedom of speech (*In re Wood* (1924), 194 Cal 49, 60 *Northwestern Pacific Railroad Company* v *Lumber and Sawmill Workers Union* (1948), 31 Cal. 2d 441, 448).

Our conclusion that disclosure of records that contain erroneous information cannot be enjoined is further buttressed by the apparent reasoning behind the general rule prohibiting the issuance of injunctions to prevent a libel or slander, i e , that the payment of damages for a published libel after the publication is a better result than the alternative of placing a prior restraint on freedom of speech, or in the present case, payment of damages for injury done as a result of the disclosure of erroneous information is better than initially prohibiting the disclosure of records

QUESTION NO. 2

You have also asked if a private individual has a legal right to an injunction to prevent a public official from making available to the public information privileged under Section 1040 of the Evidence Code

OPINION NO. 2

We are of the opinion an individual would not be entitled to an injunction to prevent the disclosure of information privileged under Section 1040 of the Evidence Code

ANALYSIS NO. 2

Section 1040 of the Evidence Code provides a privilege for public officials to refuse to disclose information acquired in confidence in the course of official activity Such privilege is in the state (see *Chronicle Publishing Co* v *Superior Court* (1960), 54 Cal 2d 548 568, on Sec 1881, C C P (repealed), the predecessor to Sec 1040)

Since only the holder of a privilege may assert it (see Sec 912, Evid C), we are of the opinion the private party would not be entitled to an injunction to prevent the disclosure of information privileged under Section 1040 of the Evidence Code Of course, specific statutes may prohibit a public agency from disclosing certain information submitted to it which might also be subject to the general language of Section 1040 (see Sec 19282, R & T C , with respect to state tax returns)

Very truly yours,

GEORGE H MURPHY
Legislative Counsel

By Jerry L Bassett
Deputy Legislative Counsel

APPENDIX D

INTERGOVERNMENTAL BOARD ON ELECTRONIC DATA PROCESSING POLICY STATEMENT ON PRIVACY AND CONFIDENTIALITY

The rapid increase in the use of electronic computers in city, county and state government and in the administration of education in California requires that continuing and increased efforts be applied to insure the security of information in these data processing systems While many government computer systems are already well protected from intrusions, it is important that continued vigilance be maintained to guarantee the security of computer information systems which will be used in the future

The Intergovernmental Board on Electronic Data Processing is committed to insuring the continued protection of the privacy of individuals on whom information is contained in the data processing facilities of state and local government It is the intention of the Board to fully utilize the technical and administrative safeguards available in computer processing so that higher standards of security may be achieved than was previously possible in manual systems

To facilitate this recommendation, the Board has established a Committee on Privacy and Confidentiality It shall be the duty of this Committee to advise the Board of methods to insure against improper disclosures of confidential information from data processing files and during telecommunications transmission The Committee shall study technical methods available for maintaining security in computing equipment and computer programming systems as well as techniques for managing and controlling the transmission, receipt, processing, storage, retrieval and display of information The Committee shall also communicate with such individuals and organizations that might assist in the furtherance of its findings

The findings of the Committee on Privacy and Confidentiality will assist the Board in fulfilling its obligation to establish policy on matters of privacy-security in government operated data processing facilities in California

The Board's responsibilities do not extend to the issue of privacy in the private sector of society

PAUL J ANDERSON
Chairman, Intergovernmental Board
on Electronic Data Processing

Sacramento, California
May 29, 1968

INTERGOVERNMENTAL BOARD ON ELECTRONIC DATA PROCESSING SUBCOMMITTEE ON PRIVACY AND CONFIDENTIALITY STATEMENT OF OBJECTIVES

1 Recommended policy to maintain the privacy of information on individuals and to insure the security of personal and organizational records as defined by law where such records are in the custody of electronic data processing facilities of governmental units, in the files and in transmission.

2 Recommend guidelines to the Board for all levels of government on the management of confidential information in electronic data processing facilities through the use of administrative techniques, available legal sanctions, technical methods and the promotion of ethical standards

3 Recommend means for achieving liaison with

   a. Computer equipment manufacturers to stimulate the incorporation of machine-security provisions in equipment currently being planned and developed

   b The data processing community in all levels of government to achieve coordination of activities to safeguard information

   c Other organizations and individuals having similar objectives, e g , educational institutions, data processing organizations, computer scientists

4. Recommend legislation on privacy and confidentiality matters as these pertain to electronic data processing facilities

5 In the vigorous pursuit of these objectives, maintain a responsible concern for the information requirements of government

6 At least annually, review these objectives and report on accomplishments

Sacramento, California
May 29, 1968

APPENDIX E

ASSEMBLY, CALIFORNIA LEGISLATURE

October 8, 1969

MEMORANDUM

TO: Directors of State Agencies

FROM Assemblyman William T Bagley, Chairman
Assembly Statewide Information Policy Committee

The State Assembly has requested that the special committee on Statewide Information Policy review the various uses of EDP in California government with particular concern for protecting the confidentiality of personal data.

In order to better inform the committee of the practices and procedures of those agencies that maintain files on individuals, I am requesting that your agency complete the enclosed questionnaire at your earliest convenience.

STATEWIDE INFORMATION POLICY COMMITTEE QUESTIONNAIRE

1 List the specific kinds of records kept by your agency on EDP equipment?
2 What information relating to individuals is kept?
3 How is the personal data listed (e g, by name, address; case number, social security number)?
4 What new categories of records do you expect to keep in computer form?
5 What statute(s) or agency policy governs access to your data kept in computers?
6 Do you consider the legal and/or other controls over use of and access to your records sufficient for your purposes?
7 Has the process of computerizing any of your records changed the confidential or public nature of the information?
8 What other public agencies have access to your computerized files?
9 What private commercial uses have been made of your computerized files? Please specify
10 What regulations are imposed upon the public agencies and the commercial users of the data?
11. What costs are involved in providing information for other agencies, commercial users, and the public?
12 How is your agency compensated for this work? What policy has been established to recover the costs involved?

(Please answer questions on a separate form)

DEPARTMENT OF AERONAUTICS

1 A Physical Facilities File—to provide information relating to existing airports and their physical facilities

2 A Demographic File—to provide planning and economic information to include statistical data on population, employment and income.
3. A Financial File—to provide financial information with respect to airport costs and revenues
4. A Travel File—to provide information relating to travel patterns

DEPARTMENT OF AGRICULTURE

1. a Contract Veterinarians for Animal Health Program
   b Livestock Brand Registrations
   c Nursery Licenses.
   d Fuel Pump Licenses
   e Livestock Remedy Registration.
   f Leave Records for Departmental Employees
   g Agricultural Producers' Address Cards
2. a Name, Address, Social Security Number, and License Number
   b Name, Address, Registration Number
   c Name, Address, Branch Locations, License Number
   d Name, Address, Location of Station, Number of Fuel Pumps, and License Number
   e Name, Address, Names of Livestock Remedies Registered, and Registration Number
   f Name, Social Security Number, Length of Service, Leave Balances
   g Name, Address, Commodity Produced
3 a License Number.
   b Registration Number
   c License Number
   d License Number
   e Registration Number
   f Social Security Number within Reporting Unit
   g Name
4 None.
5 The Departmental policy is that data processing recorded information may be made available to any interested person when so ordered by the program division concerned The only file maintained by EDP that is not covered by this policy is the Agricultural Producer's Address File (#1g above) Section 6254(e) of the Government Code exempts certain records from disclosure, including "Market or Crop Reports obtained in confidence"
6 Yes.
7 No.
8 None.
9 Livestock Brand Registration
   Used by the Western Cattlemen's Association to obtain names and addresses of potential members
   Fuel Pump License File
   Used by Richfield Oil Co to determine if a specific town could support another gas station, and in what section of town.

10 None.

11 Personnel time, machine time, supplies and overhead

12 The full costs incurred for a specific request, including overhead, are calculated and billed to the recipent of the information.

STATE BANKING DEPARTMENT

In response to your recent memorandum to Directors of State agencies relating to the uses of EDP in California Government, this Department at present does not keep any records on EDP equipment

CONTROLLER OF THE STATE OF CALIFORNIA

1 State Employee Payroll Records including current employment status.
Retirement Payment Records for Judges, Legislators and Public Employees Retirement Systems
Records of payments made for all approved claims
Gift Tax Returns
Inheritance Tax Files (Deceased persons leaving taxable estates)
Unclaimed Property Records
Various Fiscal and Statistical Records pertaining to State Funds and Accounts

2 For general disbursements (including retirement, tax refunds, etc).

Name, Address, Amount Paid and in some cases Social Security Number of Case Number assigned by authorizing agency

For payroll records of state employees

Name, Address, Social Security Number, Employing Agency and Reporting Unit, Class Code, Salary Rate, Retirement Membership and rate, payroll deductions

3 For general disbursements—by Controller's Warrant Number
For payroll—(1) by Agency and Unit (2) by Social Security Number, and (3) by Controller's Warrant Number

4. None.

5. Except for Inheritance and Gift Tax Records all others are classified as public records

6. Yes

7 No

8 No direct access to our files can be made by other agencies We do provide copies of portions of our computerized payroll files to interested state agencies where these can be used to improve their personnel and fiscal operations

9 None

10 Not applicable

11. $10,000 annually (estimated)

12 Work is performed under Standard Interagency Agreement or contract.

DEPARTMENT OF CORPORATIONS

1. A complete index of each of the following licensees Security brokers and their agents, Investment Advisers, Escrow Agents, Personal Property Brokers, Check Sellers and Cashers, Proraters, Credit Unions, Industrial Loan Companies, Small Loan Companies, Security Owners Protection Committees and Trading Stamp Companies
2. The individual's name, his residence address, his social security number and the name of the Licensee by whom he is employed
3. In alphabetical sequence by name
4. We anticipate adding no new categories in the near future
5. Section 25605(a) of the Corporate Securities Law of 1968
6. Yes
7. Computerizing of our records has not changed the nature of the information provided, this was considered public information and was available upon request prior to computerizing
8. The Department of General Services, the Agency which provides our computer services
9. Upon written requests, listing of our licensees have been provided to the public at a fee approximating our cost
10. None
11. The Department of General Services, which provides us with computer service, charges the Department of Corporations for computer time at a current rate of $75 00 per hour
12. Before a list is furnished to a member of the public, a fee is collected which is intended to recover the cost billed to us by the Department of General Services for the preparation of such lists The schedule of charges which we have established is based on the computer time necessary to provide the information requested

DEPARTMENT OF EMPLOYMENT

1 a. Employer name and address records
   b. Earnings records of all individuals and employers for whom worked in covered employment
   c. Statistical records—employer, employee, claimant, etc
   d. Records of all individuals filing claims for the various insurance or payment programs (UI, DI, UCFE, UCX, MDT, WIN, etc)
   e. Records of all payments and overpayments
   f. Job applications and job opening records
   g. Departmental personnel records
   h. Departmental equipment records
   i. Departmental form and supply records
   j. Departmental fiscal records
   k. Departmental accounting records

2. a Identifying data—SSA number, name, etc
   b Characteristic data—Sex, age, etc
   c Earnings data—how much and from whom In some cases, we have records of earnings before and after services have been provided (special applicant history file—disadvantaged served by the Department)

3 Most of our files which contain personal data are maintained in SSA number order, within ending digit blocks, or in employer account number order, also within ending digit blocks (The employer account number is a number assigned by the Department for the purpose of identifying an employer by a unique method) Some of the less voluminous files are arrayed in other orders, such as payment listing which are in date order within office number These are usually so arrayed as detail listings subservient to other purposes.

4 We have one new category of records that we are keeping This is called the Special Applicant History Tape Essentially, the data is listed by SSA and includes characteristics of the applicants and the services provided them by the Department

5 Sections 321, 1094, and 2111 of the Unemployment Insurance Code, and Section 11478 of the Welfare and Institutions Code The Department also has detailed policy instructions on what information can be released to whom in the Department Administrative Manual, Sections 1600 through 1686

6 The data released from our files is within a control structure involving several departments, such as the data released to county welfare department This data is requested directly from our files by the county welfare departments, but the responses channel back through the State Department of Social Welfare to the counties There is a suggested method of control of requests and response within the counties, but we have no way of monitoring the use of the control method

A similar situation obtains regarding requests for data handled through the Central Registry in Criminal Identification and Investigation, Department of Justice

In both of these cases, we cannot answer that the recipient of the data is using it for the legal purposes for which it was assumably requested

7 No

8 The following public agencies have access to our computerized files by submitting a tabulating card to our keypunch unit

State of California
Department of Justice
Board of Equalization
Franchise Tax Board
Department of Industrial Relations
Department of Social Welfare
Social Security Administration
Railroad Retirement Board

County Probation Officers
County Welfare Agencies

9. During the last three fiscal years, only the Los Angeles Times Mirror Press has obtained data from our computers This was employer names and addresses, which is *not* confidential information

10 The following wording has been used in letters agreeing to provide information under the Welfare and Institutions Code provisions

> "Information received in the administration of Unemployment Compensation Insurance programs is confidential by law Section 11478 of the Welfare and Institutions Code provides for the release of such information to County Probation Officers but it is incumbent on you to see that this information is used only for the purposes outlined in Section 11478 "

Similar statements are issued to all users who obtain information. Commercial users are not given confidential information and are not restricted in the use of information they receive.

11 Management has decided on standard cost figures to be used for agencies entitled to data processing services depending upon the type of EDP or EAM equipment used Major EDP machine costs are computed at an hourly rate for IBM 7080 and IBM 360 Mod 30 computer operations To this is added supplies used, etc , and section supervision, personnel benefits, and general overhead based on a percentage of personnel hours used Personnel costs are based on a standard Departmental hourly rate

12 For work done for state agencies, an interagency agreement is required which provides for reimbursement to the Department for the actual cost of the work provided For work done for entities outside the Department a contract is negotiated and payment is required for the estimated cost of the work before the job is begun

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

1 a Active member records of contributions, service, accounting and statistical data
  b Retired member records of monthly benefit payments and applicable deductions
  c Active and retired member records of hospital and medical care coverage
  d Investment records of bonds, mortgages, and stocks purchased and owned by the System
  e Subsidiary member and employer reserve accounts

2 a Active Members
    1 Identifying data—name, social security account number, employer
    2 Personal statistical data—birthdate, sex, contribution rate, account code.

3 History—contributions, interest, service, earnings, pay-rate, pay period, and certain codes

b Retired Members

1 Identifying data—name, account number, employer, type of retirement.

2 Benefit payment—annuity, pension values, and total benefit payment

3 Deductions for insurance, hospital and medical care plan, dues, etc.

4 Address

5 Retired member and beneficiary statistical data—option selected, payee code, birthdates, sex, membership date, etc.

c. Hospital and Medical Care Coverage Records

1 Identifying data—name, social security account number, employer.

2 Statistical data—type of plan coverage, premium payments, dependent family members by name, birthdates, etc.

3 Records of personal data will be printed on individual transcript forms or as various types of listings These listings are in sequence by one of several possible identifiers, namely:

a Social Security Account Number

b Name

c Retired Member Account Number

4 Employee service records for the Department—service, sick leave, vacation, etc

5 The Public Employees' Retirement Law, Chapter 2, Article 2, Sections 20134 and 20137

6 Yes

7 No The same section of the law and rules governing confidential data that pertained to records prior to the installation of the computer, are currently applied to records maintained on magnetic tape files processed through the computer

8 Every three months we provide magnetic tape of active member identification data to the Franchise Tax Board

Listings of active members' service and contributions are provided annually to each contracting public agency employer

Listing of retired member names and addresses are provided annually to each contracting public agency employer

Under the hospital and medical care program, dependent family members who have attained age 23 and are no longer qualified for coverage, are printed on special letters and sent to the State or public agency employers for distribution to the applicable enrolled members

9 Actuarial studies and valuations of active and retired members have been performed by consulting actuarial firms for the benefits of the System or for the benefit of special employee groups Information furnished does not include member identification and

when furnished to consulting firms hired by special employee groups, is done so for a fee to defray the costs

The CSEA receives monthly listings of the names of members retiring during that month These names are used for publication in the Association's newspaper

10 Contracting public agencies receiving member information, as employers of these members, are advised that such member information is not to be made available to anyone other than the authorized staff of the employers

Commercial users (actuarial consulting firms) receive only statistical data for valuation purposes and they are advised that this data can only be used on behalf of the Retirement System

11 Information furnished to public agencies is a "by-product" run of tape data developed for the printing of individual member annual statements, or is an extra copy of data prepared for use in the system These listings are considered as a service to the agencies who contract with this System for retirement coverage

Information furnished to consulting firms as an aid to preparing special studies includes EDP program development and computer run time to extract the data from existing files, and listing it, if required

12 All work performed for contracting public agencies is recovered through annual member administrative charges and through employer contributions received from these agencies to provide for their member coverage and related costs of administration

Costs incurred in data furnished to consulting firms employed for the benefit of special employee interest groups, are recovered by calculating the cost of programming for the extraction and manipulation of data and the computer cost to prepare magnetic tape or listings of the data In the past, this work has been minimal and the costs low

BOARD OF EQUALIZATION

1 *General Administration*

a Personnel accounting
b Reference indexing
c Statistical data
d Employee time reporting

Sales, Use Fuel, Transportation, Gasoline, Beverage and Cigarette Taxes

a Registration
b Security
c Tax return payments
d Audit records
e Accounts receivable
f. Tax return delinquencies

Property Taxes

a Data relating to assessment rolls for state assessees
b Appraisal survey data
c Property cost data

2 *General Administration*

a Personnel Accounting
b Time reporting

Sales, Use Fuel, Transportation, Gasoline, Beverage and Cigarette Taxes

a Owner name, firm name, type of business organization, Board of Equalization account number, business and mailing address, business code, starting date, and other registration information
b Amount of tax paid
c Amount of security posted, if any
d Amount of accounts receivable (including claims for refund)

Property Taxes

a Names and addresses of state assessees
b Names and addresses of all assessees on the local assessment rolls of a very few counties (This record is not maintained by us but comes to us as part of our intercounty equalization sample selection process)

3 Account number, Social Security number, name and position

4 a Alphabetical reference file of business taxpayer
b Amount of homeowner's exemption applications to check for intercounty duplicates

5 *General Administration*

Board policy concerning release of confidential information is set forth in detail in the Board of Equalization Administrative Manual (Sections 7200 to 7257, inc.)

Sales, Use Fuel, Transportation, Gasoline, Beverage and Cigarette Taxes

Individual taxpayer records are confidential pursuant to the confidential section of each of the taxes as set forth in the California Revenue and Taxation Code, and Section 15619 of the Government Code

Property Taxes

Sections 833 and 1820, Revenue and Taxation Code, and Section 15619 and 15644 of the Government Code

6 Yes, as long as we control access to our computer records. Elimination of our EDP Section as is being proposed for placement in a large Data Center could conceivably create problems that we do not now have

7 Yes, to a slight degree. More information was added during conversion

8 No other agencies have direct access to our computerized files. Computerized information is furnished to many cities and coun-

ties, the federal government, and other state departments provided that specific conditions are met as set forth in the various sections of the Revenue and Taxation Code and/or by Executive Order of the Governor

9 Taxpayer registration information which is public record is sold on a daily basis to various firms such as the Los Angeles Daily Journal, United California Bank, U S Record Service, etc Mailing lists are made from our registration records and sold to private firms

10 Public agencies who secure confidential information from our records are required by statute to preserve the confidential nature of the record No restriction is placed on use of nonconfidential information by public users

11 The costs incurred in providing information involve staff time, program cost, computer time, and miscellaneous office and overhead costs

12 The Board's policy is to recover costs involved in preparing information for public or commercial use No charge is made if the information must be disseminated as a matter of public service or by statutory requirement

No separate charge is made to cities and counties for certain information which must be furnished in the course of our administration of their local sales and use tax laws We do, however, recover the costs since cities and counties reimburse us for collecting their taxes

DEPARTMENT OF FINANCE

1 a *Population Research Section*

Gathers vital statistics and other data which are placed on EDP tape for use in estimating current or future population composition In addition uses an IBM port-a-punch card for the collection and tabulation of population and housing data gathered in special censuses

b *The Budget Data System*

Will record and report all expenditure and revenue data contained in the Governor's Annual Budget, as well as multiyear expenditure and revenue data required by the State Administrative Manual, Section 6800 et seq

2 a *Population Research Section*

The information recorded in the Local Enumeration Program through the use of the port-a-punch card can be traced to the individual queried This information covers those questions developed for census forecasting and housing reviews which include data to determine population by age and sex, with details for one year to 21 years and five year spans, housing units, both occupied and vacant, and the average household size, and those residents not in a housing unit In addition, the census card is designed to gather special information when requested by the local governmental unit (See Exhibit A)

b *The Budget Data System*

Will contain position classification and salary range by organization (Salary Supplement), but will not make any reference to the individual employee assigned to these positions

3 The personal data contained in the Local Enumeration Program can be traced to the individual's name and address through a serial number system maintained by the Population Research Section This is used only for census verification purposes and is not included in the published reports

4 The Budget Data System, as it is developed, will be expanded to record and report upon additional fiscal and statistical data relating to the budget process and will record administrative and legislative decisions

5 a *Population Research Section*

Section 2107 2 of the Streets and Highways Code and Section 11005 6 of the Revenue and Taxation Code provide that the Department of Finance, when requested by local governments, is to develop interim population estimates which are then certified to the State Controller and used as the basis for apportionment of certain motor vehicle revenues

Upon request from a city or county, the census cards are returned to them by the Department of Finance with a letter which contains the following paragraph

> "You are again reminded that these cards are confidential documents and that explicitly or implicitly a respondent to the questions of an enumberator has been assured that his answers are not to be made public No use should be made of these cards which would permit the disclosure of any information about an individual person or housing unit Any publicity resulting from the violation of disclosure principles would not only embarrass the city, but would undermine public confidence in census taking "

In addition to the above paragraph, the following is added to the letters for school districts

> "Because of the confidentiality of the census we recommend that the original deck of census cards be destroyed However, we do recommend that you hold the duplicate deck of cards in the event you wish to do cross tabulations " (The duplicate deck does not contain confidential data)

b In the report dated September 25, 1969, which was submitted to the Joint Legislative Budget Committee, subject "The Budget Data System" in the section covering the Objectives, Concepts and Operations of the system on Page 7, we state, "We anticipate that access to the system will be through two control points, i e , the Budget Division of the Department of Finance for the Executive Branch and the Office of the Legislative Analyst for the Legislature "

6 Yes

7. No

8 a All data cards used in the population estimates upon request are given to the local entity which ordered the survey However, no unit information can be obtained from these cards without the serial number catalogue which is not released by the Department of Finance

b As indicated in 5b, the Office of the Legislative Analyst

9 None

10 The data gathered by the Department of Finance is available only to public agencies and is not released to commercial users Section 5 of this report covers the written regulations covering the use of this data

11 The population estimates requested are under the supervision of the Department of Finance personnel and time is specifically allocated to this activity and billed to the requesting agency

12. The local governmental unit completely reimburses the Department of Finance for all costs associated with the population estimate A billing itemizing these costs is sent to the requesting agency upon the completion of the specific census

STATE FIRE MARSHAL

We do not presently use either EDP or ADP system for collecting or storing individual data

DEPARTMENT OF FISH AND GAME

1 One report—the Annual Boat Listing—is recorded on magnetic tape for special studies, reports and eventual conversion to EDP processing

2 The Boat Listing Report contains the following data
Boat identity by license number
Catch by species of fish
Pounds of fish landed or sold
Area of catch
Port of landing
Dealer purchasing fish
Date fish delivered

3 The personal data is listed by Fish and Game vessel number

4 None in the near future

5 Fish and Game Code

Section 8010 "The Department shall (a) Gather and prepare data of the commercial fisheries "

Section 8022 "The receipts, reports or other records filed with the department pursuant to the provisions of Articles 2 through 6 of this chapter, and the information contained therein, shall be confidential, and the records shall not be public records, and insofar as possible the information contained in the records shall be compiled or published as summaries, so as

not to disclose the individual record or business of any person."

6 Yes

7 No

8 U S Bureau of Commercial Fisheries

9 None

10 Section 8022 of the Fish and Game Code quoted above

11 The cost of maintaining the Marine Fisheries Statistics Unit, since one of its objectives is to disseminate fishery information About $286,000 annually

12 Commercial Fishing Licenses and fees If lists or information is desired over what the Department normally publishes, such information is provided at cost

FRANCHISE TAX BOARD

1 We have tape and data cell records as to individuals and corporations that are covered by the Personal Income Tax Law, Bank and Corporation Tax Law and Senior Citizens Property Tax Assistance Law In addition to our own records we have tapes from the U S Internal Revenue Service as to individuals filing federal returns in California

2 a Our own information as to individuals includes name, address, social security number and data as to assessments, payments, credits and abatements The records kept for income tax purposes include only those individuals subject to payment of and estimate, those having taxes due and unpaid The Senior Citizens Property Tax records include all individuals who filed a claim and the data includes income and property tax data

b The U S Internal Revenue Service records include names, addresses, social security numbers, marital status, dependents and summary income and deduction information

3 By name and/or social security number

4 Eventually we will probably expect the individual records to include all individuals filing returns There will also probably be an expansion of the records to include more income, deduction and status information

5 Revenue and Taxation Code Sections 19282 and 26451
Use of federal data is restricted by federal law and by agreement to tax administration matters

6 Yes

7. No.

8 No public agency has any direct access to the information
Information from the records can be given to other taxing jurisdictions, the Attorney General and Legislative Committees as provided in Sections 19283–19289 and Sections 26453–26455 of the Revenue and Taxation Code

9 None.

10. Other public agencies may use the information only for tax purposes designated in the statutes—see 8

11 There has been no direct use by other public agencies To the extent that another taxing jurisdiction receives data on a specific request basis, the costs would be very small

12 We recall no specific instance where data on tape or data cell has been requested by another public agency If it were, a charge would be made or the amount would be offset against services performed for this department

DEPARTMENT OF HIGHWAY PATROL

1 Vehicle traffic accident, enforcement and officer activity statistical records Accounting, attendance and management information related to Departmental operations

2 Name, address, telephone number, rank and employment location of Highway Patrol uniformed members and civilian employees only

3 Name

4 None

5 By agency policy, information is available to only the office of primary interest

6 Yes

7 No.

8 None.

9 None.

10 Not applicable.

11 None

12 Not applicable.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

"The Department of Housing and Community Development itself does not presently keep any records on E D P equipment We do receive E D P payroll data from the Controller's office on our employees We also contract with the Department of Agriculture to process time reports of our field personnel in various activities to determine program costs, develop budgets, and exercise proper supervision and program emphasis In addition, our yearly operating permit fees for mobile home parks under state enforcement is billed through E D P by contract with the Department of Agriculture In our opinion, computerizing has not changed the confidential or public nature of information We are not aware of any private commercial uses of the computerized data referred to above and kept by the Controller and Department of Agriculture

Presently, there is a great need for more and better statistics on housing data It has been proposed that the Department of Housing

and Community Develpment become more active in this statistical area It is likely that such statistics would be computerized and be made available to private and public agencies or groups Implementation will depend on future legislation and budgetary priorities."

DEPARTMENT OF INDUSTRIAL RELATIONS

1 Statistical, with the exception of two employer address files

2 All information is coded and summarized and cannot be accessed, with one exception—Division of Apprenticeship Standards Apprentice Agreements

3 Apprentice Agreements are listed by social security number

4 Long-range plans include equipment inventory and personnel leave records

5 All requests for computerized data are reviewed and must be approved by the Data Processing Manager

6 Yes

7. No.

8 None

9 None.

10 Not applicable

11 Not applicable

12 Not applicable

DEPARTMENT OF INSURANCE

"In response to your recent inquiry regarding uses of EDP, the Department of Insurance, at present, has not computerized any records Future plans include computerization of our producer license files and certain financial data on admitted insurers We do not plan to include any confidential matter in either category When, and if, our plans materialize, information requested in the attachment to your letter will be submitted to your office Hopefully, this change will occur, effectively, in 1972 "

STATE COMPENSATION INSURANCE FUND

1 All of our computer records pertain to the transaction of our workmen's compensation insurance business

2 Data that relates to individual policyholders or their injured employees

3 Personal data is listed by policyholder, name of injured, address, State Fund claim number, social security number when it is furnished to us by the policyholder

4 Only those categories which would reflect more detailed business information on policyholders now insured with the State Fund and those policyholders we will acquire in the future

5 We are governed specifically by Insurance Code and Labor Code of California and Federal Longshoreman's and Harbor Workers

Compensation Act in the conduct of our insurance business Our internal management policy, due to the competitive nature of our insurance business, is that our individual policyholder and individual claimant information files are privileged to the State Fund unless ordered open as subject matter in litigation by the Division of Industrial Accidents or the Superior Court

6. Yes.

7 No

8 None

9 None.

10 Not applicable as answer to 9 is none

11.–12 Information that is provided directly from computer to the public which would be policyholders of the State Fund is funded and costed through insurance premiums paid under policy contract

DEPARTMENT OF JUSTICE

1 Firearm Records—Stolen, lost, registered, pawned
Property—Stolen, lost, pawned
Modus Operandi—Crime pattern recognition
Criminal Statistics—Drug Offender, probation, arrest, etc Dangerous Drug Prescriptions

2 Modus Operandi Records—Name, physical description, crime pattern
Statistical Arrest Records—Name, address and arrest data.
Dangerous Drug Prescriptions—Name, type of drug prescribed, quantity, doctor's code number

3 Modus Operandi—Case number
Statistical Arrest Records—Case number
Dangerous Drug Prescriptions—Name, doctor's code number

4 Criminal history records
Wanted persons records

5 Penal Code Section 11105

6 No Statutes are adequate for control of distribution of information from State to user Need more legal control of user's disposition of information

7 No

8 Firearms, property modus operandi—Law Enforcement agencies
Criminal Statistics—All public agencies have access to public statistical reports Individual records remain confidential
Dangerous Drug Prescriptions—Law Enforcement agencies

9 None

10 Must maintain confidentiality as provided by law

11 The ADP Section's budget for the 1968-69 fiscal year was $639,184 The primary function of this Section is to maintain information for use by law enforcement agencies in California

12 All costs are supported by the State budget.

STATE LANDS DIVISION

1. Accounting, petroleum and other lease data.
   Employee time reports
   Land acquisition and disposition information
2. Names and addresses of lessees, applicants and purchasers.
   Employee pay rates, time reports
3. By name or employee roster number
4. None
5. Public Resources Code Section 6826
   California Public Records Act.
6. Yes However, proposed consolidation plans of computer equipment have not yet addressed the problems of loss of control on confidential material
7. No
8. None currently Division of Oil and Gas has inquired about possible use
9. None.
10. Not applicable
11. Not applicable
12. Not applicable

DEPARTMENT OF MENTAL HYGIENE

1. Patient History data
   Patient Billing data
   Budget Preparation data
   Employee data
   Equipment Inventory data
   Payer Names and addresses
2. The following data is maintained for an individual patient.
   Hospital
   Case Number
   Date of Admission
   Patient Name
   Sex
   Marital Status
   Race
   Birthdate
   Source of Admission
   Prior History
   Social Security Number
   City and County of Admission
   Citizenship
   Veteran Status
   Education
   Hospital, Case Number and Date of First Admission
   Movement and Ward Activity
   Original and Current Diagnosis
   Billing Information

The following data is maintained for an employee
Employee Name
Social Security Number
Salary
Anniversary Date
Position Code

3 Patient Data Files are maintained in order by case number
The data on employees is kept in social security number order.

4 No new categories of information are anticipated, however, expansion of some categories will occur For example, we may be keeping records showing results of the laboratory work processed for a patient upon admission into the hospital

5 The Lanterman-Petris-Short Act (Sections 5000-5401 of the Welfare and Institutions Code) and the Department of Mental Hygiene Policy and Procedure Manual

6 Yes

7 Somewhat in that some of the data is now carried in a form (on magnetic tape, etc) less easy to read without special data processing equipment

8 None We provide certain data to other departments but the data is extracted from our files No one has direct access to the files (see answer #10) The departments involved are Health Care Services, Public Health and Social Welfare

9 None

10 Any agency obtaining access to data from our files is required to complete a statement indicating how the data is used and who, within the agency, has access to the data Further, they are also asked to indicate how they will insure the security of the file This statement goes to the Legal Services Unit, Department of Mental Hygiene, who determines the adequacy of the statement

11 A small amount of programming and computer time that are involved in the extraction of data from our files

12 The agency is reimbursed for the actual costs involved through the use of Data Processing Services Unit Time and Cost Reporting.

MILITARY DEPARTMENT

1 Fiscal accounting, property accountability and personal data is kept on punched cards for statistical reports

2 Personal data concerning military qualifications efficiency reports, health records, SSAN, marital status, etc

3 By name and social security account number

4 None

5 Not applicable

6 Yes

7 Not applicable

8. None.

9. None
10 Not applicable.
11. Not applicable
12. Not applicable

DEPARTMENT OF MOTOR VEHICLES

1. Drivers Licenses
   Driver records including application information
   Records of Conviction for traffic violations
   Accident information
   Records of license cancellations, refusals, suspensions and revocations, identification cards
   Vehicle Registration
   Registration of vehicles
   Licensed vehicle dealers
   Licensed vehicle dismantlers
   Licensed vehicle salesmen
   Departmental personnel records

2 Drivers Licenses
   Generally this is the same as the answer to No 1 above
   Vehicle Registration.
   Vehicle license number
   Ownership of vehicles
   Ownership of a business such as vehicle dealers and vehicle dismantlers
   Occupational licenses for salesmen
   Employment records of our personnel

3 Drivers Licenses
   Driver License number
   Vehicle Registration ·
   Vehicle license number
   Vehicle identification number
   Name and address alphabetically of vehicle owners
   Name and address alphabetically of department personnel

4. Drivers Licenses
   None, except that an automated name index will be added
   Vehicle Registration
   Registration of snowmobiles
   Citizens' band license plate numbers

5 Vehicle Code Sections 1808, 1810 1811, 1812 and 1813
   Vehicle Code Section 1808 is repealed effective November 10, 1969 after which date Chapter 3 5 of Division 7 of Title 1 of the Government Code commencing with Section 6250 will govern access to the driver record information, except that Section 1808 5 has been added to the Vehicle Code maintaining the confidentiality of confidential information

   It is the policy of the Department to furnish driver record information only when the requester identifies the subject of the

inquiry by drivers license number and name or by full name and birthdate

6 Yes

7 No

8 Drivers Licenses

California Highway Patrol—Direct access to the computer record

All California Law Enforcement Agencies with CLETS tie-in will have direct access when CLETS becomes operational

All government agencies now may obtain computer printouts of driver records on request by mail

Vehicle Registration

California Highway Patrol
Los Angeles Police Department
Santa Clara Police Department
CLETS will tie in soon and provide much wider access
All government agencies may obtain registration upon request

9 Drivers Licenses

Most of the commercial requesters for driver records are insurance companies We assume that they use the records to determine insurance eligibility and rates Some private firms use the records to determine the driver privilege status of their fleet drivers

Vehicle Registration

Various companies use the alphabetical files to obtain current address of vehicle owners

Car parts houses make use of records to determine number and kinds of vehicles in use in California

Private investigators and insurance companies trace vehicle owners through license numbers

Private commercial companies use dealer lists for sales promotions

Vehicle records are made by making a direct copy from tape to tape and the customer's tape is mailed to him Vehicle dealer records are sold in form of printed lists

10 Drivers Licenses.

None Effective October 31, 1969, no bulk sales of driver license information is available Data is provided only on individual request as stated in No 5

Vehicle Registration·

The only restriction is vested in the authority given the Director, DMV by the Vehicle Code Section 1811 authorizes the sale of this information on a discretionary basis The Director, on occasion, has denied the sale to certain organizations and concerns upon becoming aware of their questionable use of this information

11. In 1968–69, our costs for providing information to private companies was $1 992,572 We were reimbursed in amount of $2,557,600 leaving a gain of $565.028 on private information requests

    In 1968–69, our cost for providing information free of charge to other government agencies was $3.087,820 This service is required by Vehicle Code Section 1812

    These costs are for equipment and for personnel required to provide the service

12 No compensation is received from government agencies as provided by Vehicle Code Section 1812

    Compensation from private companies has been based upon cost plus overhead However, this is now being changed and the Division of Registration will be charging $7 00 per thousand names for information from vehicle registration records Minimum charges have been established as $50 for a new list and $25 for an update

    Compensation for individual records as opposed to lists is $ 40 per record This applies in both Division of Registration and Division of Drivers Licenses

    The Division of Drivers Licenses will not sell lists or bulk groups of names in any manner after October 31, 1969

DEPARTMENT OF PARKS AND RECREATION

1 a Departmental training records (limited)
  b Departmental accounting records (partially)
  c Inventory of public and private recreational areas by type of agency
  d Recreational use survey data

2 a Employee's monthly time records
  b Employee training records

3 Records are kept by employee position number and by Social Security number

4 a Employee personnel transaction records
  b Accounting reports (additional)
  c Crime incident reports

5 a It is departmental policy that access to accounting and personnel data may be obtained only through the Chief, Administrative Services Division, in accordance with regulations in SAM and the State Administrative Code

  b Inventory and recreation planning data about public agencies are released for cost of reproduction Inventory of private recreation areas and planning data is released only to public agencies who participated in the study Other individuals may obtain copies of a statistical analysis for cost of reproduction

6. Yes

7 No

8 Through our Statewide Planning Branch, information concerning Recreation Area inventories is available to all counties, local recreation districts, other State agencies and the U S Bureau of Outdoor Recreation

9. None.

10. None

11. a Personnel time
    b. Costs of copying computer tapes, xeroxing or other reproduction of reports which have been produced by the computer
    c Preparation and printing of publications containing some of the data and applications thereof

12 a Publications containing the processed data are usually available free of charge Some large reports must be purchased from the State Printing Plant
    b Special work such as computer tapes and production of computer reports are charged for at the cost of production, including personnel time and departmental overhead
    c Except for public agencies specifically involved in recreation studies, we do not encourage requests for computer tapes and special printouts.

DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS

1 See attached chart

2 The basic information carried in each record is as follows license number, social security number, name, address, renewal and delinquent dates and receipt number

3. By license number

4 No new types of records are anticipated

5 All requests for access to computer data, if not initiated by the agency whose records they are, must be approved by the Executive Officer of the owner agency *and* by the Department of Professional and Vocational Standards All such requests are routed through the Data Processing Manager and coordinated by him No information is released without the appropriate approved service request.

6 Yes.

7 No

8 Other public agencies access is by request only

9 The Department, over the past year, has produced on request, eighty one (81) listings of various types Of these, 16 have been for various governmental agencies, 13 for various professional associations, and 52 for private industry

10 No regulations as to use are imposed on public agencies Commercial users sign an affidavit that the list will not be re-used without the Department's authorization

11 Costs involved in providing the information are limited to clerical involvement and computer time.

12. Public agencies pay actual cost Private industry is charged for clerical and machine cost or one cent per name, whichever is the highest.

Board Name	Major Licenses or Certificates and Total Number
HEALING ARTS	
Chiropractic Examiners, Board of	Chiropractors 4,487
Dental Examiners, Board of	Dentists 14,116, Hygienists 2,934, Total 17,070
Guide Dogs for the Blind, Board of	Trainer of Guide Dogs 17, Guide Dog Training Schools 3, Total 20
Marriage, Family and Child Counselors Section	Marriage, Child, Family Counselor Licenses 2,094
Medical Examiners, Board of	Physicians and Surgeons 54,716, Drugless Practitioners 52, Chiropodists 951, Midwives 3, Registered Dispensing Opticians 814, Registered Physical Therapists 2,750, Licensed Physical Therapists 909, Special Name Permits 454, Licensed Psychologists 2,816, Total 63,175
Nursing Education and Nurse Registration, Board of	Registered Nurses 135,014
Optometry, Board of	Licensed Optometrists 2,851
Pharmacy, Board of	Licentiates in Pharmacy 13,543, Pharmacies 4,903, Hypodermic Permits 245, Hypnotic Drug Permits 1,344, General Dealers 505, General Dealers—Prophylactics 55, Itinerant Vendors 193, Drug Wholesalers 342, Drug Manufacturers 322, Prophylactic Wholesalers 65, Prophylactic Manufacturers 10, Total 22,027
Social Work Examiners, Board of	Certified Clinical Social Workers 300, Registered Social Workers 3,243, Total 3,543
Veterinary Medicine, Board of Examiners in	Veterinary 2,806, Veterinary in Service 74, Total 2,880
Vocational Nurse and Psychiatric Technician Examiners, Board of	Vocational Nurses 27,181, Psychiatric Technicians 5,214, Accredited LVN Schools-Extended Campuses 70 Schools plus 263 Extended Campuses, Accredited PT Schools-Extended Campuses 13 Schools plus 56 Extended Campuses, Total 32,797
DESIGN and CONSTRUCTION	
Architectural Examiners, Board of	Architects 5,500, Registered Building Designers 1,190, Total 6,690
Contractors State License Board	B1 36,521, C33 7 467 C10 6,975, C36 6,356, A 4,463, All other classifications 28,411, Total 90 193
Engineers, Board of Registration for Civil and Professional	Chemical Engineers 2,316, Civil Engineers 13,293, Electrical Engineers 5,687 Industrial Engineers 736, Mechanical Engineers 11,582, Metallurgical Engineers 1 588, Petroleum Engineers 903, Structural Engineers 1,154, Consulting Engineers 79, Land Surveyors 1,176, Land Surveyors also Civil Engineers 210, Photogrammetric Surveyors 107, Engineers-In-Training 14,343, Total 62,774
Geologists, Board of Registration for	(Created by the 1968 session of Legislature, effective November 13, 1968)
Landscape Architects, Board of	Landscape Architects 805
Structural Pest Control Board	Principal Office Registration 700, Operators 1,202, Field Representatives 1,023, Branch Offices 437, Total 3,962
FIDUCIARY	
Accountancy, Board of	Certified Public Accountants 12,408, Public Accountants 13,825, CPA x 813, PA x 249, Total 27,125
BUSINESS and SANITATION	
Barber Examiners, Board of	Barbers 23,650, Apprentices 7,027, Shops 12,369, Colleges 30, Instructors 181, Total 43,367
Cosmetology, Board of	Hairdressers and Cosmetologists 126,935, Permanent Wavers and Manicurists, Electrologists and Electrologist Institutions 8,057, Establishments 18,012, Private Schools 257, Junior Operators 15, Public Schools Board Approved 21, Total 153,327
Dry Cleaners, Board of	Plants 3,431, Shops 9,457, Operators 9,635, Total 19,523
Electronic Repair Dealer Registration, Bureau of	Registrations 5,674
Employment Agencies, Bureau of	Employment Agencies 1,144, Branch Offices 234, Baby Sitters 67, Transfers 39, Interim 57, Total 1,541
Funeral Directors and Embalmers, Board of	Funeral Directors 849, Embalmers 3,196, Apprentice Registration 540, Total 4,591
Furniture and Bedding Inspection, Bureau of	Retail Furniture or Bedding 6,806, Retail Combination 6,784, Repair, Renovate or Sterilize 1,956, Manufacturing Wholesale Supply Dealers 2,457, Total 18,003
Shorthand Reporters Board, Certified	Shorthand Reporters 1,474

DEPARTMENT OF PUBLIC HEALTH

1 The computer system at the Department of Public Health is not currently designed for on-line file processing and so in a strict technical sense, none of our records are kept on our computer

This Department does, however, store some 6,000 reels of magnetic tape which is processed on our computer and which, with added machine capability, could be stored "on-line" The majority of these data files are Medi-Cal claims which belong to the Department of Health Care Services These files are housed in this Department since we do much of the data processing work for the Department of Health Care Services

The kinds of records maintained by the Department of Public Health can be most effectively detailed by the attached Table 2, "List of Data Systems Maintained by the Department of Public Health" You will note that this represents a high volume and a wide variety of records relating to persons, facilities and diseases. Table 2 also shows that these records are used for a multitude of purposes.

2 This, too, can be most effectively answered by reference to Table 2 which is attached.

3 Virtually all personal source documents collected by the Department have name and address When personal records are keypunched, a record number is almost always used for processing control purposes Frequently, this record number replaces the name and address on the data processing record since it is shorter and less costly to keypunch The name is kept only when it is required by the data processing system Addresses are kept only if the file is to be used as a mailing source, which is the exception rather than the usual situation

The social security number is kept on records contained in the Department's information systems only when there is a plan for the linkage of this record to another record to develop a data base for more effective processing

4. At present, the Department has very little fiscal and budget data processed by computer and we expect that this may be the next increment of data to be automated in this Department

5 The Department of Public Health is guided by the Public Records Act of 1968 and by the Health and Safety Code, Divisions 211 5, 10361, 10362 and 10575, Administrative Code, Divisions 901 and 902.

Data Processing Center policies on privacy are attached in the form of procedure manual sections covering general policy and a statement signed by all new employees informing them that they will be working on confidential records and asking for their assurance that they will respect the confidential nature of these records

6 Yes, we see no problem in this area.

7. No.

8 None.

9. None, directly. Private commercial use is made of the *statistical output* (tables which do not identify individuals) from computerized files.

10 (With respect to divorce records) When legitimate scientific and educational uses are to be made of listings which might identify individuals, it is the burden of the requester to establish his professional affiliation and sponsorship. Requests for access to names and/or addresses are extremely rare, the overwhelming majority of requests are for statistical tabulations

11 The costs involved are those of preparing answers to requests for statistical output· specifications for tables, computer operating costs; compilation of data; and clerical costs for each step including final transmittal of the information

12 Requests for statistical information, tabulations, listings and for tape and punched card output frequently involve identifiable additional costs to the Department for answering the inquiry. The Department is presently developing a policy and procedures for charging for statistical services rendered in providing the information

Department of Public Health
Data Processing Center Manual

Section 20 2
Page 4
Date 9-19-68
Revision of

SUBJECT GENERAL POLICIES
DATA PROCESSING CENTER

B EXHIBIT

STATE OF CALIFORNIA
Department of Public Health

Data Processing Center

Outlines for Respecting the Confidentiality of Health Department Records

Virtually all records received by the State Department of Public Health are designated by law as confidential As employees of the Department of Public Health it is our responsibility to guard against any abuse of the confidential character of these records

This means these records, or the contents of these records may be disclosed only to Departmental employees legitimately concerned with the records, and that these records be used only in the specific performance of assigned duties

When away from work it is important that you do not discuss your involvement with these records with your acquaintances, or friends You should guard against any actions that could prove embarrassing to persons whose health records may have been reported to the Department, or to the physicians or other health practitioners who may have made the report The same precautions should be exercised with respect to non-personal records such as hospitals, water systems, alcoholic clinics, etc

I understand these rules and I intend to follow them during the period of my employment

Signature Date

Department of Public Health
Data Processing Center Manual

Section 20 2
Page 3
Date 9-19-68
Revision of

SUBJECT GENERAL POLICIES
DATA PROCESSING CENTER

II PRIVACY OF INFORMATION

A GENERAL

Although not required, in view of the particularly sensitive nature of much of the data processed by the State Department of Public Health, the Department and the Data Processing Center believe that it is important to explicitly state its position and its plan of action on protecting its files

The State Administrative Manual states, under Automatic Data Processing, Policies and Objectives, Section 4801 1, item 17, "ETHICAL PRACTICES—All state personnel having access to confidential or proprietary information, including that contained in ADP systems, shall observe the highest standards of conduct relative to the confidentiality of such information"

As information processing professionals, we feel a further ethical commitment to comply with the guidelines adopted by the Council of Association for Computing Machinery which includes the item

> "1 1 an ACM member will have proper regard for the health, privacy, safety and general welfare of the public in the performance of his professional duties"

Numerous statutes as well as regulations promulgated by the State Board of Health have established as "confidential", much of the data, processed by the Department

Acknowledgment of these several obligations is recognized under the Data Processing Center's statement of objectives functions and goals, Section II A 2 i. (page II-2), "To protect the confidentiality of appropriate data files and the privacy of the individuals and facilities whose data is contained in these files" Further, the Department of Public Health has agreed to implement the Public Health Service policy (identified as Policy and Procedure Order 129 dated July 1, 1966) with regard to investigations involving human subjects, including clinical research This statement has been made part of the Department's Administrative Manual, Chapter 7, Part 7-1, Section 8

The Data Processing Center has brought these responsibilities to the attention of new staff since April 1967 by asking them to sign our own "Guidelines for Respecting the Confidentiality of Health Department Records".

TABLE 1

NUMBER OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH BY SPECIFIED CHARACTERISTICS APRIL, 1969

Program and Unit	Total	Concerned With Licensing and Certification	With Output to				
			Federal Agencies	Other State Departments	Other Bureaus in State Department of Public Health	Local Government Agencies	Outside Originating Unit
Total, All Units	221	22	93	84	99	112	206
Preventive Medical Program	101	2	51	34	37	51	94
Adult Health and Chronic Diseases	45	1	20	8	10	15	42
Cancer epidemiology	7	0	4	1	2	3	7
Other cancer programs	5	0	1	0	0	1	2
Tumor registry	7	0	4	0	2	1	7
Cardiovascular programs	7	0	0	0	2	2	7
Other chronic disease programs	13	0	9	5	1	5	13
Out-of-hospital services	6	1	2	2	3	3	6
Communicable Disease Control	19	0	13	1	8	12	18
Crippled Children Services	5	0	2	2	2	5	5
Maternal and Child Health	26	0	17	19	17	18	25
Mental Retardation Services	6	1	0	4	0	4	4
Nutrition	0	0	0	0	0	0	0
Dental Health	0	0	0	0	0	0	0
Environmental Health and Consumer Protection Program	38	7	12	20	9	17	36
Food and Drug	4	1	2	1	2	0	4
Occupational Health	1	0	1	1	1	1	1
Environmental Epidemiology	10	0	0	5	2	1	9
Radiological Health	8	4	7	6	3	7	8
Sanitary Engineering	6	2	2	3	0	1	5
Vector Control and Solid Waste Management	9	0	0	4	1	7	9
Community Health Services and Resources Program	28	5	13	13	17	20	25
Office of the Chief and Sanitation Consultant	5	1	3	1	4	4	5
Contract County Services	2	0	0	0	0	2	2
Health Facilities Planning and Construction, Licensing and Certification	11	3	7	7	7	7	8
Health Education	5	0	1	2	2	4	5
Nursing	5	1	2	3	4	3	5
Public Health Social Work	0	0	0	0	0	0	0
Laboratory Services	41	8	15	9	26	18	39
Aid and Industrial Hygiene	7	0	2	3	3	1	6
Central Laboratory Services	2	0	0	0	1	1	2
Clinical Chemistry	10	2	3	2	7	2	10
Food and Drug	1	0	0	0	1	0	1
Laboratory Field Services	10	6	6	3	7	5	10
Microbial Disease	6	0	3	1	5	5	5
Public Health Laboratory—Southern California	1	0	0	0	0	0	1
Sanitation and Radiation	3	0	0	0	1	1	3
Viral and Rickettsial Disease	1	0	1	0	1	1	1
Other Services	13	0	1	8	10	8	12
Data Processing Center	3	0	0	0	1	0	2
Health Surveillance	2	0	0	2	2	2	2
Training Office	1	0	0	1	1	0	1
Vital Statistics Registration	7	0	1	5	6	3	7

Source State of California, Department of Public Health, Ad Hoc Statistical Review Reports

TABLE 2

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
Preventive Medical Program Adult Health and Chronic Diseases Cancer Epidemiology (7)				
a Occupation—Lung Cancer	Q68,000 DB5,000	Once	Special report Smoking and Mortality, A Prospective Study (to be published)	Epidemiological research
b Air Pollution—Lung Cancer	Q65,000 DC4,000–5,000	Once	Special report Smoking and Mortality, A Prospective Study (to be published)	Epidemiological research
c Cytology in Pre-natal Patients	A150,000	Once	Special report to International Society of Cytology	Epidemiological research
d Solitary Nodule of Lung	B390	--	2 Special reports Influence on Survival of Excisional Biopsy Preceding Lobectomy Pneumonectomy for Primary Bronchogenic Carcinomas Presenting as Solitary Nodules	Epidemiological research
e Cancer Ethnic Studies	DC900	--	--	Epidemiological research
f Survival of Nasopharyngeal Cancer Patients	A516	Once	Special report Survival Rates of Nasopharyngeal Cancer in California	Epidemiological research
g Cervical Cytology Among Female Prisoners	A3,000	--	--	Epidemiological research
Other Cancer Programs (5) a Survey of Physicians on Cancer quackery	Q296	Once	1 Special report	Prevention of quackery program
b Cancer Quackery, Economic Factors	Federal reports	Once	Intrabureau memos and reports	Prevention of quackery program
c Survey of Next-of-Kin of Cancer Decedents	DC350	Once	Report to legislative bodies	Prevention of quackery program
d Leukemia-Lymphoma Surveillance in Alameda County	A250	Once	2 Special reports Leukemia-Lymphoma Surveillance in Alameda County Final report in progress	Epidemiological research
e Cervical Cytology Survey	Q60	Once	Special report Survey of Cervical Cytology Screening Practices in California Local Health Departments	Program planning

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
Tumor Registry (7)				
a California Tumor Registry	[A]20,000 75,000 followup	Monthly Annually Sporadic	Annual descriptive reports, diagnostic indexes, survival reports and monthly sets of punched cards to hospitals 3–4 special reports 1 year	Epidemiological research program planning
b Relationship of Smoking to Survival in Lung Cancer Patients	[A]20,000	Once	Paper in progress	Epidemiological research
c Treatment and Survival in Hodgkins Disease	[A]600	Once	Paper in progress	Research, treatment evaluation
d Evaluation of Biopsy vs Non-Biopsy in Melanoma	[A]200	Once	Paper—Biopsy and Prognosis of Malignant Melanoma (to be published)	Research, treatment evaluation
e Study of Minor Salivary Gland Cancer	[A]310	Once	Paper in progress	Epidemiological research
f Relationship of Major Salivary Gland Cancer to Breast Cancer	[A]40,700	Once	Preliminary study report in progress	Verify other's research results
g Evaluation of Pre-Operative Radiation in Breast Cancer	[A]65	Once	None-study now being revised	Research, treatment evaluation
Cardiovascular Programs (7)				
a Coronary Care Unit Evaluation at Peninsula Hospital	[B]842	Once	Final report in preparation	Research, treatment evaluation
b Alameda County Mortality Study	[B]2,323	Once	Special report—Cardiovascular Disease in Alameda County Deaths, 1965 journal articles and abstracts for nationwide study	Epidemiological research
c Mortality Data for Area IA Regional Medical Program	Selected[DR]	Once	Special report to Regional Medical Program	Statistical information
d Pilot Study on Heart Sound	School records	Once	Special report—Results of the Pilot Heart Sound Screening Programs Conducted in California 1967–68 journal article	Program evaluation
e Heart Sound Screening Programs Evaluation	Not yet known	Annually	Report	Program evaluation and follow-up

f Alameda County Blood Pressure Study	$2,600	Once	Special report—Alameda County Blood Pressure Study 4 papers	Epidemiological research
g Pilot Study on Feasibility of Locating Pairs of Twins	$1,000	Once	Working paper on results	Feasibility epidemiological research
Other Chronic Disease Programs (13)				
a California Medical Association Physicians' Smoking Study	$3,097	Once	Report prepared by California Medical Association additional report in progress	Behavioral research
b California Nurses Association Nurses Smoking Study	$2,604	Once	Special report in progress	Behavioral research
c Dentists' Smoking Study	$3,000	Once	Special report will be prepared	Behavioral research
d Tuberculosis and Health Association of California Surveys of Needs of Chronic Respiratory Disease Patients and Services	$5,000	Once	Tabulations for Tuberculosis and Health Association of California special report	Establish need for services
e International Longshoremen's Warehousemen's Union Study	$6,000	Continuing	Tabulations, reports, papers Mortality analysis in progress	Evaluation of multiphasic screening
f Psycho-social Factors in High School Students Related to Their Smoking Practices	$494	Once	Tabulations analysis in progress	Behavioral research
g Northern California Epilepsy Program	--	Quarterly Annually	Reports	Program evaluation
h Renal Dialysis Program	$1,160	Quarterly Sporadic	Reports	Program evaluation
i Renal Dialysis Factbook	$300	Once	Special report U S Public Health Service report journal article	Statistical information
j California Health Survey	$14,000	On request	Final report—California Health Survey 1961 special report—Diabetes in California special requests for data	Epidemiological research
k Multiphasic Screening Activities Survey	$500	Once	Final report—Multiphasic Screening Activities Survey	Determine health screening activities
l Handicapped Persons Pilot Project	$115	Once	Residential Care Needs A Report to The California State Legislature, January 1959	Determine care needs
m Mortality Data for Various Chronic Diseases	(Varies)[DC]	Continuing	Tabulations, graphs, narrative summaries for bureau staff and special requests	Statistical information
Out-of-Hospital Services (6)				
a Home Nursing Program Study	$7,677	Once	Final report in preparation Tabulations and reports for each Home Health Agency	Data on Home Health Agency
b San Francisco Visiting Nurse Association Home Health Aide Study	$340	Once	Special report—San Francisco Visiting Nurse Association Home Health Aide Study	Data on Home Health Aide

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
c Home Health Aide Certification Program	Q1,100	Annually	Home Health Aides by Age, Sex, Method of Qualifying, Place of Training and Training Agency	Statistics on Home Health Aides
d Home Health Agency Annual Report	Q110	Annually	Summary tables with narrative analysis	Statistics on Home Health Agency
e Home Health Agency Quarterly Personnel Census	Q110	Quarterly	Statistical table	Statistics on Home Health Agency
f Socio-health Evaluation Study	R448	Once	Special report	Evaluate need for Home Health Agency
Communicable Disease Control (19)				
a Weekly Morbidity Reports	R3,000	Weekly Monthly Annually	California Morbidity Reported Cases of Selected Notifiable Diseases Communicable Diseases Statistical Report	Surveillance, statistical information
b Epidemiologic Case Histories	A3,500	Sporadic	Epidemiologic and surveillance notes Special analysis on request Communicable Diseases Statistical Report	Surveillance, statistical information epidemiological research
c Confidential Morbidity Reports	R20,000	Frequent Sporadic	Hepatitis tabulations, Syphilis tabulations to National Communicable Disease Center, Tuberculosis U S Public Health Service reports, epidemiologic and surveillance notes, Communicable Diseases Statistical Report	Surveillance, statistical information
d Quarterly Report of Local Rabies Control Activities	R60–100	Annually	Annual Report of Local Rabies Control Activities	Disease control
e Semiannual Venereal Disease Report	R116	Semi-Annually	Tabulation–Gonorrhea by Age, Sex, Race, and Source of Report, Civilian and Military	Surveillance
f Annual Morbidity Report and Selected Program Statistics	R232	Annually	Communicable Diseases Statistical Report, report to National Communicable Disease Center	Surveillance
g Venereal Disease Epidemiologic Contact and Early Infectious Syphilis Followups	R39,000	Quarterly	Quarterly Epidemiologic Activity Report for Venereal Disease Syphilis Epidemiology, Quarterly Report of Priority Activities, Venereal Disease Case finding Project	Evaluation
h Birth Certificate Followups	R87,000	Sporadic	Articles	Disease prevention
i Laboratory Reports of Rickettsial, Viral and Bacteriological Isolations	R7,000	Semi-Annually Annually	Tabulations to check on disease reporting	Surveillance

j Viral and Rickettsial Disease Laboratory Health Information System (not yet in operation)	R12,500	Daily Annually	Listings, epidemiologic reports, comparisons of laboratory tests	Surveillance, disease control
k Influenza Surveillance	R1,300	Sporadic	Surveillance reports	Influenza surveillance
l Death Monitoring of Communicable Diseases	DC2,500	Annually	Communicable Diseases Statistical Report	Surveillance
m Program Data From Tuberculosis Projects	R320	Semi-Annually	Summaries	Program evaluation
n Occupational Health Doctors' First Reports of Work Injury (Selected)	R500	None	None	Check on disease reporting
o Leprosy Case and Control Register	R300	Annually	Communicable Diseases Statistical Report	Case surveillance
p Venereal Disease Program Activities Reports	R665	Quarterly Semi-Annually	Quarterly Report of Priority Activities, other reports	Program evaluation
q Tuberculosis Index Consolidation	R5,000 DC600	Annually	Listings	Surveillance
r Semi-Annual Tuberculosis Hospital Reports	R64	Semi-Annually	Tables and memoranda	Program evaluation
s Quarterly Report of Vaccines Administered and Distributed	R170	Quarterly	Table	Program evaluation
Crippled Children Services (5)				
a Services and Expenditures Report	R275,000	Annually	Statistical Report of Expenditures by Child, Diagnosis, and Type of Service, U S Government Children's Bureau Report, Special tables and graphs	Program surveillance and evaluation
b Cardiac Center Report	Q29	Annually	Annual Report of Cardiac Centers	Program evaluation and planning
c Physical and Occupational Therapy Report	R275	Annually	Therapy Reports	Program evaluation and planning
d Sample of Financial Eligibility Determinations	R2,400	Semi-Annually	Tabulations	Program evaluation
e Cost of Care Profiles (sample)	R700	Continuing	Cost of care determinations for 14 selected diagnoses (more to be added)	Program management
Maternal and Child Health (26)				
a, b, c Live Birth, Fetal Deaths and Infant Death Statistics	R353,000	Annually	Tabulations	Surveillance
d. Death Statistics	R150,150	Annually	Tabulations	Surveillance
e Childhood Death Statistics	R11,000	Annually	Tabulations (planned only)	Surveillance
f Maternal Death Case Review	R150	Every 5 Years	Journal articles 10-year report planned.	Epidemiologic research
g Matched Live Birth and Infant Death Statistics	R8,000	Annually	Special reports	Epidemiologic research and surveillance
h Twin Study File Statistics	R75,000	Continuing	Journal articles	Special studies

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

	Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
i	Congenital Malformation Study File Statistics	R72,000	Continuing	Special reports, journal articles	Surveillance
j	Therapeutic Abortion Statistics	R1,600	Annually	Annual Report of Therapeutic Abortions in California, special tabulations	Surveillance
k	Local Health Department Service Statistics	R56	Annually	Tabulations	Budget justification and program planning
l, m	Hospital Service and Hospital Inspection Statistics	R440	Annually	Tabulations planned in conjunction with perinatal mortality studies	Surveillance, set standards
n	Rural Indian Health Survey Statistics	Q1,000	Once	Tabulations and special report	Program planning
o	Phenylketonuria Newborn Screening Statistics	R10,500	Periodic	Summary tables, Special reports—Two Years of Phenylketonuria Testing in California, Phenylketonuria Progress Report	Program control and evaluation
p	Phenylketonuria Registry	S425	Continuing	Summary tables, journal articles in preparation	Case surveillance
q	*Phenylketonuria* National Collaboration Study	R11	Periodic	Special reports—Phenylalanine Tolerance Tests in Families with Phenylketonuria and Hyper-Phenylalanemia, Studies on Causes for phenylalanine with Normal Tyrosine in Newborn Screening Programs articles in preparation	Program planning
r	Farm Workers Health Service Clinic and Private MD Patient Visit Statistics	Q55,000	Quarterly Annually	Summary reports to all sponsoring agencies Annual Report of Health Status of Farm Workers	Budget justification and program control
s	Office of Economic Opportunity Flash Peak Housing—Occupant Demographic Statistics	R14,000 (for 5 mos.)	Quarterly	Summary tables	Program evaluation management and budget justification
t	Migrant Camp Sanitation Survey Statistics	R5,000	Periodic	Summary tables, Annual report	Program planning and management
u, v	Medi-Cal Claims for Hospital and Physician Services	S33,000 (Medi-Cal Tapes)	Annually	Tabulations	Evaluation
w	Hyaline Membrane Disease Study Statistics	Q40,000	--	Data system is being planned	Program evaluation and planning
x, y	Census and Department of Finance Population Estimates	Census and Dept publications	--	Tabulations	Statistical information

g. Newborn Screening Service Statistics	(Participating hospitals)	Periodic	Special reports—Field Test of Galactosemia Screening methods in Newborn Infants, A Single Spot Screening Test for Galactosemia	Program planning
Mental Retardation Services[1] (6)				
a Central Registry	[R]1,000	Weekly	Reports, memos	Program management
b Client Fiscal Summary File	36 Listings	Annually	Statistical reports	Program management
c Facility Use File	36 Listings	Annually	Special reports	Program management
d Licensed Facilities File	[R]500	Annually	Listings	Program management
e Summaries of Regional Center Activities	[R]36	Annually	Reports	Program management
f Invoices for Reimbursement	[R]120	Annually	Reports, budgets	Program management
Environmental Health and Consumer Protection Program Food and Drug (4)				
a Daily Activity Reports	[R]7,600	Quarterly	Tabulations	Program evaluation and budgeting
b Cannery Inspection Weekly Activity Report	[R]1,350	--	Accounting records	Budgeting
c Daily Report and Production Record	[R]25,000	Monthly Quarterly Annually	Statistical reports and summaries	Program management
d Inspection Cover Sheet	[R]4,800	Monthly	Summaries	Program planning and evaluation
Occupational Health (1)				
a Doctor's First Report of Work Injury	[R]31,000	Monthly Quarterly Annually	Listings, reports—Occupational Disease in California, Occupational Disease in California Attributed to Pesticides and Other Agricultural Chemicals, Reports on special industries (biennial)	Surveillance, program planning
Environmental Epidemiology (10)				
a Health Implications of Air Quality Data	240 Tabulations	Periodic	Journal articles special report—Air Quality Criteria for Lead	Epidemiologic research
b Daily Mortality in Relation to Environmental Variables	[R]1,461	Once	Reports to be prepared	Surveillance, set Standards
c Surveillance of Medical Examiners Daily Reports (Los Angeles)	[R]9,000	--	System in preparation	Surveillance
d Surveillance of Environmental Factors in Automobile Accidents	[R]60,000	Continuing	Articles and reports	Epidemiologic research
e Drug Use Survey and Evaluation	[R]15,000	Once	Reports being planned	Epidemiologic research and program planning
f Possible Relation of Carbon Monoxide Myocardial Infarction	[R]240,000 (tapes)	Once	Papers, reports to be prepared	Epidemiologic research

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
g Lead and Heavy Metal Storage in Human Populations	Published reports and tab reports	Continuing	Articles and reports	Set standards
h Chronic Respiratory Morbidity and Mortality in Relation to Environmental Exposure	--	--	Reports and publications	Epidemiologic research
i Physicians Environmental Health Survey	1,000	--	Reports are being planned	Epidemiologic research
j Effects on Health of Drinking Water constituents	"Highly variable"	Periodic	Reports and articles	Epidemiologic research set standards
Radiological Health (8)				
a Licensing of Radioactive Material	175 New licenses 1,500 admendments	Monthly Annually	Special reports—California Radioactive Material Licenses by county, Radioactive Material Licenses by Inspection Agency and Priority, Reports to Atomic Energy Commission, tabulations and listings	Program management and control
b. Radioactive Material License Inspections	590	Quarterly	Reports, listings and tabulations	Program control and evaluation
c Registration of Radiation Machines	18,000	Quarterly Annually	Tabulations and listings	Program control
d Radiation Machine Inspections	5,000	Quarterly Annually	Tabulations, report to U S. Public Health Service	Program control, budgeting and planning
e Environmental Surveillance Data	Computer tabs from San and Rad Lab	Monthly Quarterly	Special reports	Surveillance
f Workload Activity Report	120	Monthly Annually	Tabulations, listings	Program budgeting, planning and control
g Fee Collection and Accounting	9,200	Monthly Quarterly	Tabulations, listings	Program control
h Special Surveys	1-2 Studies	Annually	Publications, special reports, speeches	Program planning
Sanitary Engineering (6)				
a. Large Water System Records	400	Annually	Tabulations	Program planning and budgeting

b Bacteriological Analysis Record	R1,200	Annually	Hand tallies	Surveillance
c Chemical Analysis Record	R2,000	Annually	None	Surveillance
d Small Water System Record	R500	Annually	Listings	Surveillance
e Waste Facility Records	R1,000	Annually	Listings	Surveillance
f Timekeeping for Program Budget	R800	Monthly	Reports and graphs	Budgeting
Vector Control and Solid Waste Management (9)				
a. Zoonoses Suppression	R700	Periodic	Special reports on results and recommendations	Surveillance
b Identification Unit Records	R4,600	Periodic	Identification reports, occurrence and distribution maps, epidemiologic reports	Technical assistance
c Mosquito Population Surveillance	R1,800	Weekly Annually	Immature Mosquito Occurrence Report, Adult Mosquito Occurrence Report, annual summaries	Surveillance
d. Mosquito-Gnat Insecticide Susceptibility Surveillance	R400	Semi-Annually Annually	Reports	Program management
e Evaluation of Insecticide Applications	R80	Periodic	Reports	Program management
f Aquatic Gnat Occurrence and Etology	500 Collections	Periodic	Evaluation reports, identification keys, technical articles	Develop and evaluate methodology
g Solid Waste Management Study	R1,500	Annually	Reports—Solid Waste Management Kern County 1967, Status of Solid Waste Management, California Solid Waste Planning Study Vol 1	Program planning
h Adult Fly Surveillance	60 Collections	Annually	Special reports	Technical assistance
i. Waste Fruit (Orchard) Fly Production	513 Samples	Once	Special report—Survey of fly occurrence in waste fruit in orchards in Fresno County	Program planning, set standards
Community Health Services and Resources Program				
Office of the Chief and Sanitation Consultant (5)				
a Annual Report of Expenditures, Finances and Personnel	Q58	Annually	Report—Compensation of Full-Time Professional and Technical Personnel in Local Health Departments in California, tables	Budgeting
b Annual Local Health Department Plan	Q58	Annually	Duplicate record	Program planning evaluation and budgeting
c Report of Program Budget and Expenditure of Federal (314d) funds	L58	Quarterly Annually	Summary reports	Program planning evaluation and budgeting
d Allocation of State Subsidy and Federal (314d) Allocations	Dept of Finance Estimates	Annually	Tables	Budgeting
e Roster of Registered Sanitarians in Local Health Departments	R500	Annually	Listings	Management and planning

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
Contract County Services (2)				
a. Public Health Nursing Activities Report	R31,000	Monthly Semi-Annually	Tabulations	Program planning and evaluation
b. Environmental Health Activities Report	R348	Quarterly	Reports	Program planning and evaluation
Health Facilities Planning and Construction, Licensing and Certification (11)				
a. Licensed Facilities File	R900	Quarterly Annually	Listings, summary tables, reports—Hospitals, Homes and Related Facilities, Summary Data of Facilities and Beds	Program planning, evaluation and budgeting
b. Facility Inspection Reports	R4,000	Quarterly	Tabulations	Management, program surveillance
c. Hospital Field Representative Time Reports	R60	Monthly	Summary tables	Program management and budgeting
d. Annual Reports	R1,770	--	California State Plan for Hospitals	Budgeting
e. Certified Facilities File	Medicare records	Monthly	Listing of facilities	Program management
f. Weekly Status Report	R52	Weekly	Report	Answer information requests
g. State Plan for Hospitals	R4,600	Annually	California State Plan for Hospitals	Program planning
h. State Plan for Facilities for Mentally Retarded	R525	Annually	California State Plan for Facilities for Mentally Retarded	Program planning
i. State Plan for Community Mental Health Centers	Compiled report	Annually	California State Plan for Community Mental Health Centers	Program planning
j. Federal Project Data File	820	Annually	Summary cards	Program management
k. Architectural Report	86,000	Monthly	Listings	Program budgeting and planning
Health Education (5)				
a. Suicide Statistics Distribution and Questionnaire Feedback	VS Tabs	Annually	Special report	Program planning and statistical information
b. California Conference of Local Directors of Health Education Manpower Survey	921	Once	Verbal report	Recommendations, set standards

c. California Conference of Local Directors of Health Education Manpower Survey	Q49	Once	Special report	Recommendations
d Survey of Recipients of California's Health	Q11,047	Annually	Report in California's Health	Evaluation
e Annual Survey of Health Education Positions and Salaries	R25	Annually	Report	Budgeting
Nursing (5)				
a Employed Community Nurse Register	R5,000	Semi-Annually Annually	Listings, tables	Management
b Certification of Public Health Nurses	R2,000	Semi-Annually Annually	Certificates issued, listings	Management
c Home Health Agency Survey	R100	Biennially	Tables	Management
d Scholarship Program	R10	Every 5 years	Tables	Management
e Agency File for Employed Nurses	R600	Annually	Listings	Management
Laboratory Services				
Air and Industrial Hygiene (7)				
a Sample Results	R2,100	Periodic	Reports of results	Technical assistance
b Sample Analysis Report	R300	Monthly	Memos, tables	Budgeting
c Atmospheric Hydrocarbons	R832	Monthly Annually	Results, summaries	Surveillance
d Development of Sampling and Analytic Procedures	8 Studies	Periodic	Papers, reports, tables	Management and planning
e Air Quality Standards Research	4 Projects	Periodic	Articles	Research
f Intra- and Inter-Laboratory Performance Evaluation	3 Studies	Periodic	Reports	Control and evaluation
g Seminar Mailing List	Lists	Monthly	Mailing labels	Information
Central Laboratory Services (3)				
a Media Productivity and Sensitivity	R60	Once	Report, table, graphs	Control and evaluation
b Selection of New Standard Methods Reference Medium	R36	Once	Report	Control
Clinical Chemistry (10)				
a. Quality Control of Laboratory Analysis	R5,000	Periodic	Quality control charts, recommendations	Control
b. Methods Development and Comparison	R5,000	Daily	Reports, graphs	Control
c Studies of Proficiency Testing Methods	R6,200	Quarterly	Reports	Evaluation
d. Participation in Proficiency Testing Program	R360	Monthly	Reports	Evaluation

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
e Amino Acid Screening	B360	Monthly	Reports	Disease control
f Evaluating Laboratories Approved for Phenylketonuria Testing	B900	Semi-Annually	Reports, articles	Evaluation
g Berkeley Anemia Study	B1,300	Quarterly	Tabulations	Technical assistance
h National Nutrition Survey	B148,000	Daily	Report form	Collaborative study
i Evaluating Laboratories to be Approved for Blood Alcohol Testing	--	--	System being set up	Evaluation
j Workload Data	B730	Weekly	Reports, workload projections, budget estimates	Management
Food and Drug (1) a. Sample Analysis	B132	Annually	Summary tabulation	Program planning and budgeting
Laboratory Field Services (10) a Licensed Laboratory Facilities	S5,400	Quarterly Annually	Permits, listings, mailing labels, tabulations	Control
b. Syphilis Serology Performance Evaluation	S4,500	Quarterly Annually	Tabulations, reports	Evaluation and control
c Performance Evaluation—Laboratories Certified for Medicare	S5,400	Quarterly	Plans being made	Control
d Examinee and Licensed Laboratory Personnel	S1,600	Semi-Annually Annually	28 various listings of examinees and personnel	Control
e Trainee Registration	B960	Annually	Summary tabulations	Budgeting and Administration
f Local Public Health Laboratories—Quarterly Reports	B160	Quarterly Annually	Summary tabulations	Control and program surveillance
g Annual Report—Animal Species Examined for Rabies	B61	Annually	Summary tabulations	Control and surveillance
h. Clinical Laboratory Manpower Survey	Q1,245	Once	Tabulations	Information requests

i License for Tissue Banks, Animal Care and Biologics	R442	Annually	Licenses, summary tabulations	Control and budgeting
j Workload Activity Data	R252	Monthly	Tabulations	Program planning and budgeting
Microbial Disease (6)				
a Laboratory Test Results	R50,000	Daily Annually	Tabulations, special requests	Management
b Development and Evaluation of Methods in Microbiology	Varies with project	Monthly Annually	Reports, articles, verbal presentations	Evaluation
c Evaluation of Medical Reagents	Varies with project	Monthly	Reports, articles, verbal presentations	Planning and evaluation
d Surveillance Projects	Varies with project	Annually	Reports, publications, talks	Surveillance
e Proficiency Testing	Varies with project	Annually	Reports, talks	Evaluation, training
f Workload Time Study	R728	Annually	Tabulations	Planning and budgeting
Public Health Laboratory—Southern California (1)				
a Workload Activity System	R12	Monthly	Tabulations	Budgeting and Management
Sanitation and Radiation (3)				
a Radiological Computation Program	7,680 Samples	Biweekly Monthly	Computer printout	Surveillance
b Approved Water Laboratory Program	R335	Annually	Listings of Approved Laboratories, Report	Control
c Workload Statistics	R75,000	Monthly	Summary tables and graphs	Planning
Viral and Rickettsial Disease (1)				
a General Viral Diagnostic Data Processing System	R50,000	Monthly Annually	Summary tabulations, Report of Activities, Laboratory Services	Control and surveillance
Other Services				
Data Processing Center (3)				
a Simulation Investigation	--	--	System under investigation only	Planning
b. Billing System for Services Provided	R50,000	Monthly	Invoices for services	Management
c Management Information System	R50,000	Weekly Monthly	4 Accounting reports	Evaluation and control
Health Surveillance (2)				
a Health Trends Series	Census Publications	Periodic	4 Special reports to date	Statistical information and planning

TABLE 2—Continued

LIST OF DATA SYSTEMS MAINTAINED BY THE DEPARTMENT OF PUBLIC HEALTH WITH VOLUME OF INPUT ANNUALLY, FREQUENCY AND DESCRIPTION OF OUTPUT AND PURPOSE

APRIL, 1969

Name of Data System	Volume of Input Annually*	Frequency of Output	Description of Output	Purpose
b Health Highlights	Department Publication and reports	Periodic	1 Special report, to be updated	Reference
Training Office (1)				
a Training Records	R1,100	Periodic	Reports	Budgeting and planning
Vital Statistics Registration (7)				
a Birth Data	S336,000	Monthly Annually	Tabulations, statistical reports, indexes	Reference, planning
b Death Data	DC168,000	Monthly Annually	Tabulations, statistical reports, indexes	Reference, planning
c Fetal Death Data	DC4,500	Annually	Tabulations, statistical reports, indexes	Reference, planning
d Marriage Data	R102,000	Monthly Annually	Tabulations, statistical reports, indexes	Reference, planning
e Divorce Data	P164,000	Monthly Annually	Tabulations, statistical reports, indexes, Divorce monograph series	Reference, planning
f Multiple Birth Study File	S8,000	Annually	Special report Multiple Births—California Part I Twin Population Study File 1905–1959	Reference, research
g Ancillary Records	S45,000	Weekly Annually	Tabulations	Planning and management

* Q = questionnaire DR = death record DC = death certificate A = abstract R = record or report S = subject

Source State of California, Department of Public Health, Ad Hoc Statistical Review Reports

PUBLIC UTILITIES COMMISSION

1 1. Cost information involving for-hire motor carrier transportation in the State of California

1 11 Labor information, including hours, pay rates, location, and classification

1 12 Historical cost of motor carrier transportation equipment.

1 13 Variable costs for motor carrier transportation equipment, including fuel, oil, tires and maintenance

1 14 Performance and utilization information for labor and equipment.

1 2 Traffic-flow information from freight bills issued by regulated carriers.

1 3. Information pertaining to carriers regulated by the commission, including name, address, activation status, revenues, and commodities hauled

1 4 Carriers authorized by the ICC to operate in California, including name and address

2 Where the information may relate to an individual doing business as an authorized carrier under the jurisdiction of the commission, the information outlined in 1 3 above is maintained

3. The data outlined in 1 3 can be listed on any basis; e g by name, county of domicile, revenue category, Public Utilities Commission license number, etc

4. None planned

5 1 Public Utilities Code, and Related Constitution Provisions

5 2 Public Utilities Commission General Order 66B

5 3 Public Utilities Commission policy on disclosure of confidential business information, issued July 26, 1968

6. Yes

7. No

8. All other public agencies have access to our computerized files provided that the restrictions listed under Question 5 above are adhered to.

9 Occasional lists are furnished to insurance companies, private research firms, and parties interested in specific proceedings before the Public Utilities Commission.

10 Those outlined in Question 5 above

11 The costs involved are minimal per year since the number of requests for information is very low It is estimated that it would aggregate less than $1,000 per year

12 The commission has established a price list for this work As an example, if a request is made for a list which contains 1,000 names, the charge would be $175 00 This is based on a minimum charge of $75 00, plus ten cents per name

The commission has established the following policy concerning lists prepared on request

All permitted carriers statewide	$300 00
Special lists, i e all radial or contract carriers, or lists of carriers by county	10 a name Plus 75 00 SC *
Lists for Motor Transportation Brokers	5 00
Lists for Charter-Party Carriers of Passengers	10 00

* Service charge payable in advance

DEPARTMENT OF PUBLIC WORKS

1 Specific kinds of records kept by the Department of Public Works are· Fiscal, engineering, accident, motor vehicle trip, employee, budget, and telephone lists.

2. Information relating to individuals is kept as follows.
Current employment record
Safety files
Key Punch production
State automobile accidents
State injuries (Department employees only)
Training statistics
Telephone lists

3 Personal data is listed by name, social security number, class code, birthdate, sex, and agency of employment

Internal telephone lists have name, room number, unit of employee, and telephone local

4 New categories or records which will be kept are
Accounts receivable, toll collector's performance, supply and stock inventories, employee sick leave, vacation and overtime records

5 No statute or agency policy governs access to the personnel data kept in our computer

6 The control over the use of and access to our records is sufficient for our purposes at this time However, this is under review as new systems are developed and necessary changes can be put into effect

7 There has been no change in the confidential or public nature of our information due to computerization

8 No other agencies have access to our computerized files

9 No private commercial uses have been made of our computerized files

10. Does not apply.

11 Does not apply.

12. Does not apply.

DEPARTMENT OF REHABILITATION

1 Data pertaining to applicants for vocational rehabilitation services and recipients of such service

2 Please see attached statistical reporting form

3. Social Security Number

4 Present plans not firm, probably employee personnel records at a future date.

5 Federal Vocational Rehabilitation Act and Regulations

6. Yes

7. No.

8 None

9. None.

10 Information may be shared with other public agencies in the interests of the individual Restriction of use of the information would follow that provided Other than the Federal Vocational Rehabilitation Agency (R S A), no data has been released other than statistical summary tables

11. Not applicable.

12 Not applicable.

Form BSA-900
Revised July 1, 1969

U S DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
National Center for Social Statistics
Washington, D C 20201

Form Approved
Budget Bureau

CASE SERVICE REPORT FEDERAL-STATE PROGRAM OF VOCATIONAL REHABILITATION

Agency Code_____* PART 1 (TO BE RECORDED AT TIME OF FIRST REFERRAL) Case No_____

1 Last Name | First Name | Initial | Date of Birth

C Referral Date_____ E Age_____
D Referral Source_____* F Sex 1 ☐ Male, 2 ☐ Female

2 Address Street and Number

G Disability as Reported (describe)

City | County | (Code*) | Zip Code

Code_____*

PART 2 (TO BE RECORDED AT COMPLETION OF REFERRAL PROCESS)

3 Soc Sec No_____
4 SSDI Status at Referral_____*
5 Race_____*
6 Date Referral Process Completed

7. Months In Statuses 00-02_____
8 Spanish Surname Yes ☐ 1, No ☐ 2
9 Outcome of Referral Process
NOT ACCEPTED Reason_____*
1 ☐ from (00), 2 ☐ from (02)
Client Referred to_____* or
Referral not Appropriate ☐ 00
If closed from status 00, complete Items 3 A thru 3 C If closed from status 02, complete Items 2 H thru 2 R and Items 3 A thru 3 C

G. Outcome of Referral Process (cont.)
AC- 03 ☐ 6-mos Ext Eval (04)
CEPTED 04 ☐ 18-mos Ext Eval (06)
FOR 05 ☐ VR Services (10)
Complete items 2 H thru 2 R
DO NOT COMPLETE ANY OF PART 3 AT THIS TIME

H Disabling Condition (describe)
1 Major

Code_____*

2 Secondary

Code_____*

I Previous Closure within 36 months
No ☐ 1, Yes—Outcome Rehab ☐ 2
Not Rehab ☐ 3
Months Since Last Closure_____
J Marital Status_____
K Number of Dependents_____
L Total Number in Family_____
M Highest Grade Completed_____
N Work Status_____
O Weekly Earnings_____$_____
P Total Monthly Family Income (including earnings)_____
Q Public Assistance {Type_____ Mo Amt ...$_____ No. of Years_____
R Primary Source of Support_____

PART 3 (TO BE RECORDED AT TIME OF CLOSURE)

A Cost of Case Services (Dollars)

1 All Services—Total	
2 Rehabilitation Facilities—Total	
3 Social Security Trust Funds—Total	
4 Extended Evaluation—Total	

B Social Security Trust Funds Cases Only
1 Social Security Claim Type_____*
2 If Claim Type 2, 3, or 4 above—enter

Name of Wage Earner

Social Security Number of Wage Earner

3. Check (x) if Administrative* Costs only ☐
*Includes counseling, guidance, and placement

C Federal Special Program Identification*

None	TF	AFR	MMS	MAW	PO	WIN				SUM
										/////
000	001	002	004	010	020	040	100	200	400	

D Date Ext Eval Completed (if applicable)_____
E SSDI Status at Time of Closure_____*
F Work Status_____*
G Weekly Earnings_____$_____
H Public Assistance {Type_____*
{Mo Amt_____$_____
I Occupation (title)_____
Code_____*

J Number of Months on Agency Rolls
1 In Extended Evaluation (statuses 04 or 06)_____
2 From Acceptance to Closure (statuses 10–24)_____
3 In Training (status 18)_____
4 Ready for or in Employment (statuses 20–22)_____

K Outcome of Extended Evaluation or VR Services
1 ☐ Closed from Ext Eval (status 08) Reason_____
2 ☐ Closed Rehabilitated (status 26)
3 ☐ Closed Not Rehabilitated (status 28) Reason_____
4 ☐ Closed Not Rehabilitated (status 30) Reason_____

L Services Provided Indicate (x) if applicable

Type of Service Provided or Arranged for by Agency		With Cost Only(1)	Without Cost Only(2)	With or Without Cost(3)
10 Diagnostic and Evaluation				
11 Restoration(Phys or Mental)				
12	College or University			
13	8th Academ (Elem or HS)			
14	Business School or Col			
15	Vocational School			
16	On-the-Job			
17	Personal & Voc Adjust			
18	Miscellaneous			
19 Maintenance				
20 Other services				
21 Services to oth fam mbers				

(TRAINING)

M State Agency Special Program Identification

None										SUM
										/////
000	001	002	004	010	020	040	100	200	400	

* These Items are to be coded

SECRETARY OF STATE

1 Records maintained by the Secretary of State on EDP equipment are as follows

a. Information concerning financing statements and security agreements filed with the Secretary of State pursuant to Division 9 of the Uniform Commercial Code

b Information concerning notices of federal tax liens files with the Secretary of State pursuant ot Section 1, Chapter 14 of the Government Code, commencing with Section 7200

c Information concerning notaries public appointed by the Secretary of State pursuant to Chapter 3, Division 1, Title 2 of the Government Code, commencing with Section 8200

d Registered voter information contained on computer tapes received from various counties pursuant to Section 456.5 of the Elections Code.

2 Information relating to individuals is as follows:

a Concerning filings pursuant to the Uniform Commercial Code (financing statements and security agreements)

1. Name and address of debtors named in the filed record Also social security or federal tax number, if available

2 Name and address of secured parties named in the filed record.

3 Identification of filings against a subject debtor (filing information).

b. Concerning filings pursuant to Section 7200 of the Government Code (notices of federal tax liens).

1 Name and address of the taxpayer.

2 District office and address for U S Treasury Department

3 Identification of filings against taxpayer (filing information).

c Concerning notaries public appointed pursuant to Section 8200 of the Government Code

1. Name and address of the notary.

2 Effective date of appointment and history record re: previous appointments.

d Concerning voter registration tapes received from various counties pursuant to Section 456 5 of the Elections Code.

1 Name and address of voter

2 Gender of voter

3 Precinct number for the voter

4 Political party with which voter is registered

5 Districts i e , Congressional, Senatorial, Assembly

6 Date of registration, etc

3. Information concerning individuals other than registered voters is indexed under the name of the individual Addresses and/or social security numbers or taxpayer numbers are used as secondary identifiers

The registered voter information is generally indexed by voter name within a political subdivision i e , Congressional District, Senatorial District, or Assembly District The format may vary from county to county

4 New record categories which the Secretary of State expects to keep in computer form are as follows

a Notices of state tax liens to be filed with the Secretary of State effective January 1, 1970, pursuant to Section 6757 5 of the Government Code (Chapter 915, Stats 1969—AB 1338)

b Names and addresses of corporate officers to be filed with Secretary of State effective January 1, 1971, pursuant to Section 3301 of the Corporations Code (Chapter 1159, Stats 1969 —SB 1107).

c. General corporate information i e name or corporation, principal place of business address, date of incorporation, stock structure, name and address of agent, etc.

5 a Sections 9407 of the Uniform Commercial Code, 6757 5 and 7203 of the Government Code govern access to data concerning financing statements and notices of tax liens Said code sections require the Secretary of State to provide information relative to the subject records

b. There is no statute controlling the dissemination of computerized notary public information which is basically the name and address of the notary

c Section 456 5 of the Elections Code controls the release of information concerning registered voters. Actually, the Secretary of State does nothing more than provide a copy of the magnetic tapes received from a county. The code provides data may be made available for only election or governmental purposes

6. Controls over computerized data are considered to be adequate in all areas except that area dealing with voter registration information The Secretary of State has no assurance the "voter registration tapes" or the information contained therein will be used properly, even though the requestor states in writing that the "tapes" or the information contained therein will only be used for either election or governmental purposes Further, the statute provides no penalty for misuse of the data The Secretary of State if concerned about this matter and hopes to develop and suggest an amendment to Section 456 5 of the Elections Code

7. The computerizing of certain information has not changed the confidential or public nature of the information

8 No public agency has access to our computerized files It is assumed this question refers to access by remote terminals, etc

9 Private or commercial use of computerized files Actually, the computerized files per se have not been used by private or commercial sources However the information contained in the files is extensively used by private and commercial sources For example, the financial community obtains considerable information concerning financing statements and security agreements which have been filed for the purpose of perfecting security interests in personal property

The business community and the public in general obtains considerable information concerning notaries public There may be a question as to the authenticity of a record and a question raised as to whether a notary public was a duly qualified notary public at the time the document in question was notarized, etc

10 The only restrictions imposed on users of computerized data are those restrictions imposed by Section 456 5 of the Elections Code as they relate to voter registration tapes These restrictions were mentioned in Item 6 above.

11 The cost involved in providing information is general in nature i.e., clerical processing of the request, supplies, computer system time, overhead costs, etc

12 Statutory fees are provided for all but the voter registration information The fees collected more than pay for the services rendered. As for voter registration information, costs such as machine time, operator time, etc., are determined and charged to the person or firm requesting the service.

DEPARTMENT OF SOCIAL WELFARE

1. The following kinds of records are kept by Social Welfare Information Systems

Master Persons File—An eleven month record of recipients eligible to receive care under the California Medical Assistance Program (Medi-Cal) for each of the five major aid categories and their categorically linked medically needy only.

Personnel and Manpower File—A current active roster of all county and state public welfare employees including employment and education history, as well as a record of additions, promotions and separations for personnel reports and manpower management.

Adoptions Resources File—A file containing all of the characteristics of children available for adoption and the characteristics of the child desired by prospective adoptive parents

Social Data Samples—A current snapshot of the characteristics of recipients in each of the five major aid categories and their categorically linked medically needy only, as well as historical data on persons added and discontinued from the assistance rolls.

Public Social Services File—A select sample of recipient cases receiving public social services for all aid categories

Community Services File—A file containing characteristics on patients discharged or on leave of absence from state mental hospitals

2 Depending upon the specific file involved, the following information is kept:

Name
Welfare number
SSA number—(HIB#)
Social data characteristics
Dates of eligibility
Personnel records
Needs and grant amount

3. Files are maintained in the sequence of the identifying characteristics (e g, Welfare number, social security number)

4 At the present time, a study is being made to determine the feasibility of an on-line accounting and personnel system to replace the mechanical bookkeeping machines with word copy ledgers set up for each line item Budget Account With the proposed system, we hope to house one terminal device in Fiscal initially, with one

terminal device in Personnel at a later date, with direct connection to a computer.

5. The statutes governing access to our automated files are found in the Welfare and Institutions Code—Division 9, Public Social Services; Part 2, Administration; Chapter 5, Records
6. The controls set forth in the aforementioned Welfare and Institutions Code are sufficient since access to any information kept by this agency is restricted to those directly connected with the administration of the specific program
7. Since the records maintained by this agency have always been confidential and not available to the public, automation of these records has had no affect on this aspect
8. Information is gathered by and exchanged among the various departments within the Human Resources Agency (e g, Department of Health Care Services, Department of Mental Hygiene) but with no other department outside this agency.
9. No private commercial use is made of the computerized files maintained by this department unless under direction of the user. An example of this is the recent sample of AFDC cases supplied to Ernst and Ernst who are under private contract to the Department of Social Welfare
10. Since the data is not made available to public agencies or commercial users, the only regulations which apply to our records are those stated in Item 5 above
11. As in 10 above, since there is no involvement, there is no cost recovery.
12. All costs incurred by Social Welfare Information Systems are covered by the Legislative Budget Act

STATE TEACHERS' RETIREMENT SYSTEM

1. a. Active members' ledger card
   b. Retired persons' disbursement ledger
   c Retired persons' address file
   d Investment portfolio
   e. Active and retired statistical data
   f. Workload statistics
2. Members: Social security number, service, contributions, statistical data and address
   Retirants Addresses, amount of benefits, and insurance premiums.
3. Only by social security number
4. Foster file—Alpha index of all participants in the System. Cost accounting for program budget
5. Section 14026 of the Education Code (after November 10, 1969, Section 13892) as follows

   "Data filed by any member or beneficiary with the Retirement Board is confidential No official or employee who has access to the individual records shall divulge any information con-

cerning such records to any person other than the member to whom the information relates or his authorized representative, the governing board of the school district or agency by which he is employed, or any state department or agency. They shall be used by the Retirement Board for the sole purpose of carrying into effect the provisions of this chapter (commencing with Section 13801) The information shall not be open to inspection by anyone except the Retirement Board and its officers and employees, and any person authorized by the Legislature to make inspections"

It is the policy of the agency to strictly adhere to the provisions in this code section

6 The laws in control of this area are sufficient for all purposes of the agency

7 Computerizing has not changed the confidentiality of the members' records to the present time

8. This agency shares the electronic data equipment with Public Employees' Retirement System and California Veterans Administration Those two agencies have access to the computer data, because of the joint sharing of the equipment and rooms containing the equipment

9 There has been no private commercial use to date.

10 None

11 Not applicable The public, other agencies, and commercial enterprises make no such use

12. Because there are no such uses, this question does not apply to this agency

STATE TREASURER

1 Redeemed state warrants and records of state deposits

2 None

3 Not applicable

4 Registered interest records for state issued bonds, records of securities housed in the state vault or authorized depositories; accounting for the redemption of state issued bonds and coupons.

5. None

6 Yes

7 No.

8 State Controller's Office

9 None.

10 Not applicable.

11 None.

12 Not applicable.

DEPARTMENT OF VETERANS AFFAIRS

1. Loan Accounting Records
2. A Loan Identification
   1. Contract number
   2 Name of contract purchaser
   3 Address of property

   B Personal Data·
   1. Birthdate
   2 Take-home pay
   3 Veterans status (WW I, WW II, Korea, etc)

   C Insurance Information.
   1. Amount of fire and hazard insurance coverage
      a. Premium amount.
      b Type of coverage.
   2 Replacement cost of property
   3. Coverage dates
   4 Record of losses
   5 Status of life and disability insurance coverage

   D. Property Information
   1. Loan amount
   2 Purchase price
   3 Department's appraised market value
      a. Value of land
   4. Loan term
   5 Tax amount

   E Loan Accounting Records
   1 Routine history of installments, loan balance, payment dates, changes, etc

   F Loan Termination Information.
   1 Assigned
   2. Repossessed
   3 Paid by mortgage insurance
   4 Paid in full prior to loan term
   5. Paid off by monthly installment
3 Contract numbers
4 None
5 A Chapter 85, Military and Veterans Code
   "Records of the Department which are records of contract purchasers shall not be open to inspection by the public "

   B Departmental policy forbids dissemination of information or access to files and records to anyone except authorized regulatory or auditing unit
6. Yes
7 Made unauthorized access more difficult
8 A Price-Waterhouse

   B Division of Audits

9 None.

10. A No commercial users
B. Auditing agencies can divulge information only to regulatory agencies for corrective action

11 Not provided, except to audit agencies Costs of this are not identified

12 No compensation

DEPARTMENT OF WATER RESOURCES

1 The Department keeps many kinds of records on EDP equipment. These range from engineering and technical data to personnel records of the department's employees

2 Information relating to individuals kept in the computer is concerned solely with departmental employees. The most significant personnel information identifies each employee's name, civil service classification, position code, salary, merit salary anniversary, work location, type of appointment, time base, social security number and sick leave, vacation and compensating time off balances We retain the capability of producing other personal information such as the identification of an employee's educational background and prior military service. A breakdown of employees by major ethnic groups is also available but this data is not keyed to individual employee. Other information relating to individual employees is kept in Personnel Office files as required by the State Administrative Manual

3 With a computerized system, we have the capability of producing desired personnel information in various possible sequences As a matter of routine, listings are made in the following order

Name
Civil Service Classification
Position Code
Social Security Number

We do not maintain the home address of employees in the computer file

4 There are no plans for new categories of records

5 The Department knows of no statute or administrative regulation governing access to data kept in computers per se. The California Public Records Act is the basic statutory authority governing the disclosure of information by public agencies In addition to this, the Department has guidelines regulating the disclosure of information relating to program policy and employees' employment records

6. Yes.

7 Computerization has not changed the confidential or public nature of the information

8 Principally the State Personnel Board and the Department of Finance.

9. No private commercial uses have been made of our data files
10. The California Public Records Act authorizes public agencies to charge a reasonable fee for the sale of computerized records In addition, under the Act, public agencies may refuse to disclose personnel, medical, or similar data, where disclosure would constitute an unwarranted invasion of personal privacy.
11. Since our dealings are almost entirely with other state agencies and the costs involved are small, no cost records are kept and no provisions have been made for recovery of these costs
12. See answer to question 11 above.

DEPARTMENT OF YOUTH AUTHORITY

1. A record is kept on punched cards of every ward currently under the jurisdiction of the California Youth Authority, and of every ward who has ever been under the jurisdiction of the California Youth Authority. This information is kept in many types of card formats which relate either to the geographic location of the ward or the particular status that he may be in at that time. In addition, there are many decks of punched cards constituted for research purposes which deal primarily with program evaluation
2. The following basic information is maintained on each ward for population accounting purposes Y.A number, name, commitment offense, county of commitment, court of commitment, sex, race, date of birth, year of first admission, type of current admission, date of current admission, current location or status, previous location or status, date of change from previous location to current location, violation offense, violation disposition, type of discharge In addition to the above information which is standard for all wards, there are other decks of cards that give information relating to home environment, developmental behavior, delinquent behavior, schooling, I.Q and achievement test scores, diagnostic evaluation, institutional and parole progress, etc
3. The information that is maintained on each ward is identified by both Y.A. number and by name. Rarely are there any punched cards that do not contain both of these reference sources
4. We do not expect any different types of records to be developed; however, we would anticipate improving our data base to the extent that many more variables regarding the ward and his treatment needs would be incorporated into the EDP record.
5. No specific statute has governed the use of the punched card information; however, Agency policy has dictated that these data are not to be made available to anyone except allied agencies in the administration of criminal justice (Department of Justice, County probation departments, etc), and certain research organizations connected with universities or foundations Except for C.I I these data are rarely if ever used in relation to any particular individual Names are unimportant for statistical or research purposes.

6. Yes
7. No
8. No other public agency has access to our files unless we specifically make them available.
9. None.
10. There is no commercial use of our data and very limited use by any other public agency
11. None, except in the rare instance where we may supply duplicate decks of cards for limited research purposes
12. The extent of this use has been so limited there has been little need for a policy statement on it.

CALIFORNIA STATE COLLEGES PERSONNEL SYSTEM

1. The data elements contained in the primary personnel file are contained in Chapter 4 of the reference The secondary personnel file has not been implemented
2. The data elements described in Chapter 4 are being maintained for San Fernando Valley State College Only those data elements common to the Controller's position roster and payroll records are now maintained for the other colleges
3. The files are maintained by school number and social security number
4. None.
5. It is state college policy that access to computer records be granted only to the originator, to those assigned specific one time access by the originator, or the Board of Trustees
6. Yes.
7. No
8. The Department of Finance and the Department of General Services has requested copies of other files and these requests have been satisfied
9. None However, one student association did make a list of student names and addresses available to the insurance company having the contract to provide student life insurance Although this list was produced on a campus computer, the original list belonged to the student association.
10. Access to data is not permitted.
11. The cost of the media and computer time necessary to produce duplicates No informtaion requiring programming has yet been provided
12. No Cost recovery at standard rates would be expected from non-state agencies or from auxiliary organizations

APPENDIX F

LEGISLATIVE COUNSEL OF CALIFORNIA

Sacramento, September 30, 1969

HONORABLE WILLIAM T. BAGLEY
4016 State Capitol

RECORDS—#11906

Dear Mr. Bagley:

Pursuant to your request, we have prepared a collection and digest of state law relating to the collection, retention, and destruction of all records, other than court or criminal records, kept by state and local governmental bodies and agencies.

We have made this compilation from the various indexes available to us, but have not included any changes made at the 1969 Regular Session of the Legislature, as the period for the veto of any enrolled bills has not expired at this writing

We have not included any statute which merely implies or indirectly calls for a record to be kept (e.g., a provision that an agency shall make a report to the Governor might imply that the Governor make some record of the report or keep it on file) nor have we included statutes relating to the public or confidential nature of records, or requiring that records be open to inspection by public or administrative officers

We have listed laws which in terms apply to private parties or individuals because in certain instances a state or local agency might be engaged in the activity covered by these laws

The digests herein are of only that part of a particular statute which deals with records; in many cases a given statute may cover other areas as well. In the interest of brevity, the digests are necessarily incomplete and the given code provision or law should be read in its entirety

Very truly yours,

GEORGE H MURPHY
Legislative Counsel

By Jerry L Bassett
Deputy Legislative Counsel

AGRICULTURAL CODE

Section 435 requires the Director of the Department of Agriculture to make appropriate records of code numbers of fruit and nut tree stock

Section 8505 requires the secretary of the Board of Directors of a Citrus Pest Control District to keep minutes of meetings and to take custody of all records

Section 10751 requires operators of Hog Sales Yards to keep records of all swine passing through the yards.

Section 10752 lists the contents required in Hog Sales Yard records and requires same to be kept one year.

Section 11733 requires a registrant [in the pest control business] to keep records of each property treated and lists contents required in such records

Section 19001 defines "records" as "the rendered, cured, or smoked meat records required to be kept by Section 19002 "

Section 19002 requires the operator of an establishment which smokes, renders, or cures meat to keep records of the amount and kind of meat so processed.

Section 19004 requires cured meat records to include the name and address of the person for whom meat is so processed

Section 19031 defines "horsemeat records" as used in [Art. 13] as "records required to be kept by Section 19033 "

Section 19032 grants exemptions from Article 13 (relating to Horsemeat Records) for small quantities of horse, burro, or mule meat that are sold to one person or that are prepackaged

Section 19033 requires one who slaughters horses, mules, or borros, or acquires meat of such animals, and sells such meat to keep, for one year, records of the transactions

Section 20691 requires the Bureau of Livestock Identificatoin to maintain a record of all brands recorded, except those subject to Section 20701.

Section 20701 allows records of brands that have been canceled or forfeited for more than five years to be destroyed

Section 21321 requires the hide and brand inspector to keep a memorandum of each animal inspected and lists the contents required in such memorandum

Section 21322 requires a memorandum of inspection to be kept for at least two years by the hide and brand inspector

Section 21323 requires the Bureau of Livestock Identification to keep files of inspection certificates for five years so as to disclose the number of cattle inspected

Section 21591 [Same as Section 21323]

Section 22003 requires one who slaughters cattle for his own consumption pursuant to Section 22002 and sells the meat, to give the buyer a sales tag, lists contents of the tag, and requires the buyer to retain the tag for 30 days

Section 22006 requires licensed frozen food locker plant operators to keep for five years a record of every transaction involving uninspected meat and lists the contents required in such record

Section 22008 requires unlicensed slaughterers of cattle to keep record books and lists the contents required therein.

Section 22044 requires the bill of sale consignment slip, or certificate of inspection to be kept in the office of a licensed slaughterer of cattle from before slaughter to one year after

Section 22045 requires, where inspection prior to slaughter is impractical, licensed slaughterers to keep records of cattle slaughtered and lists the contents required in such records

Section 22083 requires meat retailers purchasing the meat of any animal to keep records of purchase and lists the contents required therein.

Section 23251 states that cattle branding laws apply to the use of brands on horses, mules, burros, or sheep [Pertinent sections: Sections 20691, 20701.]

Section 23831 requires a person engaged in the selling of horses, mules, burros, or the hides of such animals on consignment to keep a consignment certificate containing certain information

Section 26601 requires a statement of ownership of a shipper of poultry to be kept as part of the records of the transporter or carrier.

Section 26602 lists the contents required in the records of a carrier who receives poultry for transport

Section 26631 requires a dealer handling poultry for resale to keep certain records

Section 27757 requires every party to transactions involving substandard eggs to keep, for at least one year, records of such transactions

Section 28090 requires every public warehouse to keep records of all imported egg products received by it each month and lists contents required in such records

Section 34261 requires a licensed tester to make a permanent duplicate record of every test of milk, cream, or fluid derivative thereof, sold on the basis of milk fat content and requires the record to be in accordance with the specifications of the Department of Agriculture

Section 34262 requires each test of milk, cream, or fluid derivative thereof to be recorded in indelible pencil or ink and to correctly identify test used

Section 34263 requires each sheet of a milk fat test record to be authenticated with the tester's signature and requires the duplicate record to be deposited in a described box

Section 34264 requires the original record of a milk fat test to be given to the purchaser, receiver, or seller of the milk, cream or fluid derivative and to be retained by him for at least three months

Section 35191 requires a manufacturer, or importer of butter substitutes or imitation milk products to keep certain records.

Section 43311 requires all parties to transactions involving substandard fruits, nuts, or vegetables to keep, for at least one year, accurate records of such transactions

Section 54780 requires [agricultural] warehousemen to keep records of every product stored and withdrawn, every warehouse receipt issued by them and each receipt returned to and canceled by them

Section 55033 requires the Department of Agriculture to keep written records of insect inspections of grain warehouses.

Section 55605 requires every processor of farm products, except a licensed winegrower, to keep records of all products consigned to him and lists the contents required in such records

Section 55606 requires every processor of farm products who makes "pooled return" contracts with two or more consignors to keep a record of all sales and charges

Section 55607 lists the contents required in the books and records of farm products required to be kept by every processor

Section 56271 lists the contents required in the records required to be kept by commission merchants handling any farm product

Section 56274 lists the contents required in the records of "pooled return" contracts required to be kept by commission merchants.

Section 56275 requires commission merchants to retain for one year copies of all records covering their transactions

Section 56301 lists the contents required in the records required to be kept for one year by dealers purchasing any farm product from a producer

Section 56331 lists the contents required in the memoranda required to be retained for one year by brokers negotiating sales of farm products and requires copies to be given to the buyer and seller.

Section 57102 requires that all records, information and statistics required by the Director of Industrial Relations concerning produce market exchanges shall be kept on file in office of the director.

Section 58382 requires permits to destroy agricultural products to be kept on file by the person to whom issued

Section 58782 requires a record of hearings on proposed marketing orders or amendments to be kept on file in the office of the Director of Agriculture

Section 59201 authorizes the Director of Agriculture to require producers or distributors of farm products to maintain records

Section 59618 requires the records of business or acts performed or testimony taken pursuant to provisions of the Agricultural Producers Marketing Law to be kept on file in office of the Director of Agriculture

Section 61412 requires prices filed pursuant to Section 64111 [distributor's price schedules] to be kept in the office of the Director of Agriculture

Section 61414 requires the Director of Agriculture to file forthwith upon receipt all filings and amendments required by Section 61412

Section 61441 requires certain records to be kept by distributors and manufacturers of milk, cream or any dairy product

Section 61442 requires distributors to keep records of all dairy products sold and lists the contents required in such records

Section 61937 requires that records of business or acts performed or of testimony taken pursuant to the chapter providing for stabilization and marketing of fluid milk and fluid cream be kept on file in the office of the Director of Agriculture

Section 61939 requires the Director of Agriculture to collect statistical data

Section 62582 requires certain records to be kept by distributors purchasing fluid milk or cream.

Section 62832 lists the contents required in the record to be kept by buyers of English walnuts or almonds for processing or resale

Section 62833 requires such records [Section 62832] to be kept one year

Section 63002 lists the contents required in the records to be kept by buyers or consignees of avocados for processing or resale

Section 63003 requires such records [Section 63002] to be kept one year

Section 64221 requires certain records to be kept by handlers and producers of milk fat.

Section 64222 lists the contents required in the records by Section 64221.

Section 65601 requires records to be kept for two years by shippers of fresh grapes, as the Table Grape Commission shall prescribe

BUSINESS AND PROFESSIONS CODE

Section 11 requires any records required by the Business and Professions Code to be made in writing in the English language, unless otherwise expressly provided

Section 110 declares that, with the exception of examination questions prior to submission to applicants at scheduled examinations, all records are the property of the State of California and that the Department [of Professional and Vocational Standards] shall have possession thereof

Section 553 requires all maternity homes, hospitals, and similar institutions to keep records of all cases of opthalmia neonatorium occurring or discovered therein

Section 555 requires the Department of Public Health to keep a record of all cases of opthalmia neonatorium filed with its office pursuant to this chapter and to include such record in its biennial report to the Governor and the Legislature

Section 1612 requires the Board of Dental Examiners to keep a record book of all persons granted a license to practice dentistry and to keep records of all acts and proceedings

Section 1618 requires the original records of the Board of Dental Examiners to be kept at the office of the secretary

Section 1619 requires the examination papers of an applicant for a dentist's license to be kept for one year and allows destruction of the same thereafter.

Section 1652 requires the secretary of the Board of Dental Examiners to keep a register of dental licenses

Section 1748 requires the secretary of the Board of Dental Examiners to keep a register of dental hygienists

Section 2110 requires the Board of Medical Examiners to keep records of all its proceedings and a register of all applicants for certificates of medical practice

Section 2284 declares examination papers of medical certificate applicants to be part of the records of the Board of Medical Examiners and requires the secretary-treasurer to keep same on file for one year

Section 2341 requires the county clerk to keep a register of holders of medical practice certificates and gives form to be followed

Section 2342 requires the county clerk to keep a public list of all medical practice certificates recorded by him

Section 2374 requires the secretary-treasurer of the Board of Medical Examiners to keep records of all cases of disciplinary action

Section 2375 requires the county clerk to make note, on the face of his register of a medical practice certificate, of disciplinary action taken by the Board of Medical Examiners and prescribes certain form for such notation

Section 2680 requires the Board of Medical Examiners to keep a record of its proceedings under the chapter [on Physical Therapy] to keep a record of all licenses, and stipulates contents required

Section 2713 requires the Board of Nurse Examiners to keep records of its proceedings, including a register of all applicants for licenses under the chapter [on Nursing]

Section 2852 requires the Board of Vocational Nurse and Psychiatric Technician Examiners to keep a record of all its proceedings under the

chapter [on Vocational Nursing], including a register of all applicants for licenses

Section 3015 requires the secretary of the Board of Optometry to keep all the records of the board.

Section 3018 requires the Board of Optometry to keep a record of all its proceedings and meetings

Section 3019 requires the Board of Optometry to keep a record of all prosecutions for violations of the chapter [on Optometry], a record of all examinations given, and a record of all applicants for certificates taking examinations

Section 3020 requires the Board of Optometry to keep an inventory of all property of the board and of the state in its possession.

Section 3021 requires the Board of Optometry to keep a register of optometrists

Section 3600-1 (Initiative measure—Statutes 1923, p. xciii, sec 1) requires the State Board of Osteopathic Examiners to keep records of its proceedings, including a register of all applicants for certificates

Section 3600-2 (Statutes 1962, 1st Ex Sess., Ch 48) requires Board of Osteopathic Examiners to enforce Article 12 (commencing with Sec 2340) and Article 13 (commencing with Sec 2360), among others, of the Business and Professions Code, with respect to persons holding certificates under the jurisdiction of that board

Section 4005 requires the executive secretary of the Board of Pharmacy to keep a register of all persons coming under the provisions of this chapter [on Pharmacy]

Section 4051 excepts certain physicians, who dispense drugs to their own patients, from the operation of the chapter [on Pharmacy], provided they keep accurate records of drugs so furnished.

Section 4141 prescribes the contents of the record required to be made of the sale of any hypodermic needle or syringe

Section 4166 prescribes the contents of the record required to be made of the sale of certain poisons

Section 4167 prescribes the form for poison record books and requires preservation of the books for five years

Section 4169 requires a poison book to be written in English

Section 4170 lists certain buyers, the sales of poison to whom need not be recorded.

Section 4182 requires the county clerk to keep a record of all fines and forfeitures imposed in his county under the article [on Poisons]

Section 4222 requires a purchaser of hypnotic drugs to file an inventory with the Board of Pharmacy and keep a copy of the inventory filed for three years.

Section 4224 requires a purchaser of hypnotic drugs to keep a copy of the purchase order for at least three years

Section 4225 requires a hospital to keep a record of the administration of hypnotic drugs

Section 4226 5 requires a pharmacy or wholesaler furnishing hypnotic drugs to a physician, dentist, podiatrist or veterinarian to keep a copy of the purchase order.

Section 4227 prescribes the contents of records required to be kept of any hypnotic drug administered by any person exempt under Section 4225.

Section 4227.5 requires every furnisher to keep for three years a copy of the invoice or other record of purchase of any amphetamine, desoxyephedrine, or compound thereof

Section 4232 requires all records of sale, purchase or disposition of dangerous drugs to be kept for three years, and requires certain persons who maintain a stock of dangerous drugs to keep a current inventory.

Section 4331 requires all prescriptions filled to be kept on file for at least two years

Section 4360 requires the executive secretary of the Board of Pharmacy to record all actions of the board setting aside a disciplinary penalty under this section.

Section 4809 requires the Board of Examiners in Veterinary Medicine to keep a record of all its meetings and a register of all applicants for licenses

Section 5013 requires the Board of Accountancy to keep records of all its proceedings and of all actions before the board and before its committees.

Section 5025 requires the Board of Accountancy and referees of hearings before the board to keep records of such hearings

Section 5521 requires the secretary of the Board of Architectural Examiners to keep records of all proceedings of the board.

Section 5554 requires the Board of Architectural Examiners to keep an index and record of all certificates to practice architecture

Section 6048 requires the Board of Governors and committees of the State Bar to make and preserve records of hearings

Section 6080 requires the Board of Governors of the State Bar to keep a record of all disciplinary proceedings and allows destruction after five years of records of disciplinary proceedings in which no discipline has been imposed

Section 6307 requires secretaries of boards of law library trustees to keep records of all proceedings and prescribes content of such records.

Section 6504 requires the secretary of the Board of Barber Examiners to keep records of all proceedings

Section 6510 prescribes the contents of records required to be kept by the Board of Barber Examiners

Section 6554 lists records which the Board of Barber Examiners may require a licensee to keep.

Section 6715 lists the contents of records required to be kept by the Board of Registration for Professional Engineers

Section 6864 prescribes the contents of records of license applicants required to be kept by the Chief of the Collection Agency Licensing Bureau.

Section 6891 requires that examination papers of applicants for a collection agency license be kept for one year

Section 6892 requires the Chief of the Collection Agency Licensing Bureau to keep files and records of a licensee for one year after his license is terminated

Section 6894.9 requires the Department of Professional and Vocational Standards to keep current records of all registered collection agency employees

Section 6915.5 allows the Director of Professional and Vocational Standards to destroy all financial reports.

Section 7014 allows the Contractors' State License Board to procure equipment and records necessary to fulfill provisions of the article [on Contractors].

Section 7080 lists certain records required to be kept by the registrar of contractors.

Section 7111 states that a contractor's failrue to keep certain records is a cause for disciplinary action

Section 7207 requires the Board of Guide Dogs for the Blind to keep records of all proceedings.

Section 7307 requires the Board of Cosmetology to keep all records at its principal office.

Section 7312 prescribes the contents of registration records required to be kept by the Board of Cosmetology.

Section 7313 requires the Board of Cosmetology to keep records of its proceedings.

Section 7397 requires schools of cosmetology to keep attendance records, among others.

Section 8505 13 prescribes the contents of the job log required to be kept by Structural Pest Control Board licensees

Section 8531 requires the registrar of the Structural Pest Control Board to keep records of all the board's actions, including an index of applicants for licenses

Section 8531 5 requires the Structural Pest Control Board to keep permanent records of the minutes of its meetings

Section 8652 states that the failure of a structural pest control operator to keep certain records is cause for disciplinary action.

Section 8711 requires county recorders and the secretary of the Board of Registration for Civil and Professional Engineers to keep records of all licenses and applicants for licenses for land surveyors

Section 8762 requires land surveyors and civil engineers to file with the county surveyor records of surveys made, and requires the county surveyor to record same with the county recorder

Section 8763 prescribes the form of survey records

Section 8764 prescribes the contents of survey records

Section 8770 requires the county recorder to keep a book and index of records of surveys filed with him, and requires him to keep the original maps of the surveys

Section 9009 requires the Social Worker and Marriage Counseler Qualifications Board to keep records of all proceedings, including a register of all applicants for certificates

Section 9815 requires the Director of Professional and Vocational Standards to keep a record of all registered electronic repair service dealers

Section 9847 requires electronic repair service dealers to maintain records as required by regulations adopted.

Section 9970 requires every employment agency to keep approved records

Section 10148 requires licensed real estate brokers to keep for three years copies of certain documents

Section 10264 requires a licensed business opportunity broker to keep for three years copies of certain documents

Section 10514.9 requires licensed mineral, oil, and gas brokers to keep for three years copies of certain documents.

Section 11580 requires county recorders to keep a record book of filed final subdivision maps and to store originals.

Section 12103 requires the Department of Agriculture to keep a record of all acts under the weights and measures division of the Business and Professions Code

Section 12304 requires the Department of Agriculture to keep standards of weights and measures

Section 12305 requires the Department of Agriculture to keep one set of copies of the original standards of weights and measures

Section 12718 requires public weighmasters to keep for four years records of weight certificates issued

Section 12756 requires private weighmasters to keep for four years records of weight certificates issued

Section 12788 requires public weighmasters at large to keep for four years records of weight certificates issued.

Section 14270 requires the Secretary of State to keep a record of all registered trademarks.

Sections 14281 and 14282 require the Secretary of State to remove a trademark from the register upon a court order

Section 14701 requires the Secretary of State to keep a record of literature filed under the provision [on Authorship Rights]

Section 19432 requires the secretary of the Horse Racing Board to keep records of all proceedings

Section 20806 requires one who sells, buys, or stores reclaimed oil to keep for one year records of such transactions

Section 21503 prescribes the contents of the records to be kept by sellers of secondhand watches

Section 21504 requires records of secondhand watch sellers to be kept for three years

Section 21507 requires sellers of secondhand watches to keep for one year a duplicate of sales invoices.

Section 21551 requires all secondhand goods dealers who buy or receive as a pledge any builder's tools to keep a register and prescribes the contents of such register

Section 21605 requires all junk dealers to keep a record of sales and purchases

Section 21606 prescribes the contents of records required to be kept by junk dealers

Section 21607 requires junk dealers to keep certain records for two years

Section 23384 requires holders of general liquor licenses to keep records showing purchases of distilled liquor made in the previous three years

Section 25238 requires certain records to be kept by central coast counties wine growers

Section 25371 requires the Department of Alcoholic Beverage Control to keep a record of alcoholic beverages seized and disposed of

Section 25752 requires records to be kept for one year by an alcoholic beverage licensee and prescribes the contents of such records.

CIVIL CODE

Section 79 05 allows a health officer to destroy after two years laboratory reports of premarital examinations

Section 79 07 requires county clerks to keep for one year premarital examination certificates filed with them

Section 607 (f) requires county clerks to keep a book designated "Record of Humane Officers"

Section 1631 requires sellers and buyers of mining machinery to keep records of a transaction

Section 2470 requires county clerks to keep a register of persons filing fictitious name certificates

CODE OF CIVIL PROCEDURE

Section 131 3 requires probation officers to keep case histories and allows destruction of such histories after five years from the termination of probation

Section 1315 requires the State Controller to keep a record of unclaimed property from a decedent's estate

Section 1316 requires the State Controller to keep a record of all unclaimed property received by the state under the provisions of this title.

Section 1581 requires business associations which sell travelers' checks or money orders to keep a record of purchasers

Section 1748 allows a counselor of conciliation to destroy, upon a court order, records older than two years

COMMERCIAL CODE

Sections 9403–9406 outline the duties of a filing officer with whom financing, continuation, assignment or release, and termination statements are filed

Section 9408 allows a filing officer to destroy after one year, unless he has notice of a pending action, certain records filed with him

CORPORATIONS CODE

Section 8 requires all records required by this code to be in writing

Section 814 requires waivers of notice of a board meeting to be made a part of the minutes of the meeting or a part of the corporate records

Section 2209 requires waivers of notice of a shareholders' meeting to be made a part of the minutes of the meeting or a part of the corporate records

Section 3000 requires corporations to keep minutes of meetings of directors or shareholders

Section 3001 requires corporations to keep books of account

Section 3001 1 requires corporations upon an assessor's request, to make available a copy of the corporation's books with respect to its property within the county

Section 3002 requires corporations to keep share registers

Section 25241 requires broker-dealers in securities and investment advisers to keep and file such records as the Commissioner of Corporations requires.

EDUCATION CODE

Section 31 requires any record required by this code to be in writing in English unless otherwise provided

Section 105 requires the Superintendent of Public Instruction, as secretary of the State Board of Education, to keep a record of all the board's proceedings

Section 359 places the Department of Education in possession and control of all records and property held for the benefit of the bodies, offices, and officers whose duties, powers, and jurisdiction are transferred to the Department of Education

Section 651 requires county boards of education to keep records of their proceedings

Section 801 requires a county superintendent of schools to keep a record of his official acts and of the porceedings of the county board of education, including a record of the standing of applicants for certificates who have been examined, and requires the superintendent to keep in his office the official reports of the Superintendent of Public Instruction

Section 802 requires a county superintendent of schools to preserve the reports of school officers and teachers

Section 807 allows a county superintendent of schools to destory his records in accordance with the regulations of the Superintendent of Public Instruction if the destruction is not otherwise authorized or provided for

Section 1031 requires the governing board of a school district to keep certain records

Section 1034 allows destruction of school district records by the governing board pursuant to authorized regulations of the Superintendent of Public Instruction

Section 1035 allows the destruction of school district records after microfilming

Section 1834 prescribes the disposition of certain records upon the event of one school district becoming part of another

Section 5609 requires that separate attendance records be kept of all pupils from an elementary school district paying the tuition provided for in Section 5605 enrolled in the first two years of the junior high school

Section 10752 requires the transfer of cumulative school records when a pupil changes school districts

Section 10951 requires school attendance records be kept

Section 11476 requires that school attendance records of adults be kept separately from other attendance records

Section 11477 requires that junior college attendance records of nonresidents (of the district) be kept separately

Sections 12154 and 12154 5 require private schools to keep attendance records of pupils

Section 21153 requires county superintendents of schools to keep a record of school district warrants that have become void

Section 12305 requires every person, firm, corporation, or agent offices of a firm or corporation to keep a register of all minors under the years containing names, ages, and addresses of the minor employees.

Section 13264 requires the governing board of every junior college district to keep a roster of the order of employment of all probationary and permanent employees of the district.

Section 13558 requires a state school register to be kept by or on behalf of every public elementary school teacher, in which register shall be recorded the absence or attendance of each pupil taught by the teacher

Sections 13858 and 13859 require the Teachers' Retirement Board to keep certain records and accounts regarding actuarial and other data.

Section 19514 requires the State Controller, State Treasurer, and State School Building Finance Committee to keep a record of their proceedings under the State Building Aid Bond Law of 1949

Sections 27555, 27806, and 28205 require the board of library trustees of, respectively, a library district in an unincorporated town or village, a library district, and a union or unified high school district, to keep a record of the board's proceedings

Section 28282 requires a library commission of a unified or union high school district to keep a record of the commission's proceedings

Section 29010 requires any person, firm, association, partnership or corporation which issues or confers diplomas as honorary diplomas to maintain for three years certain records concerning courses of study offered, students, and diplomas granted

ELECTIONS CODE

Section 8 requires any records required by this code to be in writing in English, unless otherwise provided

Section 420 requires county clerks to keep a register of uncanceled affidavits of registration

Section 421 requires county clerks to keep original canceled affidavits of registration for 10 years and to keep duplicates thereof for 90 days

Sections 422, 423 and 424 prescribe the form and contents of the registers of affidavits of registration required to be kept by county clerks

Section 458 requires county clerks to compile and keep available voter lists.

Section 3707 requires county clerks to keep initiative measure petitions on file as public records

Section 6146 requires the Secretary of State to keep a file of nomination papers

Sections 6521 and 6524 require the Secretary of State to keep in his office certain sponsor certificates, declarations of candidacy, and declarations of candidacy by sponsors.

Section 6523 requires county clerks to keep files of sponsor certificates and declarations of candidacy by sponsors

Section 6524 requires that declarations of candidacy [by candidates and sponsors] and sponsor certificates be kept for four years by the officer with whom they are filed.

Section 7100 requires that nomination papers be kept for two years by the proper officers, and requires destruction of such papers thereafter

Section 10015 requires the officer authorizing the printing of ballots to keep a record of the number of ballots printed.

Section 10018 requires county clerks, or clerks or secretaries of any city to keep a file of receipts for delivered packages of ballots

Section 14252 requires precinct boards to cause a clerk to keep a list of voters whose voting is challenged

Section 17400 requires election records to be disposed of in the manner required by the article of which Section 17400 is a part.

Sections 17401 and 17403 require county clerks to keep for six months the sealed packages of voted ballots, and requires them to destroy same after six months

Section 17404 requires county clerks to hold and destroy the packages of spoiled, canceled or unused ballots in the same manner as the packages of voted ballots

Section 17405 requires county clerks to retain in their custody the packages described in Section 17202 and to destroy them in the same manner as the packages of voted ballots

Section 18467 requires the clerk of a board of supervisors to enter in the records of the board the result of a canvass of election returns

Section 18469 requires, in certain circumstances, a record to be kept of votes cast to nominate or elect any person to a public or party office

FINANCIAL CODE

Section 8 requires that records required by this code be in writing in English

Section 258 requires that the Superintendent of Banks keep on file the weekly public statements required to be made by him

Section 1106 requires banks to keep separate records for each department

Section 1753 requires foreign banking corporations to keep records of their California business separately from all other business

Section 1936 requires every corporation licensed to perform the functions of a bank or trust company to keep its records pertaining to its California business in the English language

Section 3520 requires international and foreign banking or financing corporations to keep its records and books as required by the Superintendent of Banks

Section 3526 requires international and foreign banking or financing corporations to keep a record of stockholders and directors thereof and copies of all reports made to the Superintendent of Banks

Section 5813 requires a foreign banking corporation to keep in an office in this state all records pertaining to assets and liabilities situate in this state

Section 8702 requires savings and loan associations to keep their books so as to show their assets, liabilities, receipts and expenditures

Section 8703 requires savings and loan associations to keep records showing the appraised value of real estate held as security for each loan

Section 8703.1 requires savings and loan associations to keep a file of records of inspections made in connection with construction loans.

Section 8709 requires the Savings and Loan Commissioner to keep a copy of each annual report filed with him

Section 12303 requires a check seller or cashier to keep for four years proper records of his transactions.

Section 14453 requires that the annual financial report of the supervisory committee of a credit union be filed with the credit union's records

Section 17404 requires all persons subject to escrow regulations to keep records which show whether functions performed comply with the provisions of the division [Escrow Agents]

Section 18608 requires industrial loan companies to keep their accounts and books so as to show whether the company is complying with the provisions of the division [Industrial Loan Companies]

Section 18609 requires an industrial loan company to preserve its records for at least two years

Section 22406 requires personal property brokers to keep their books so as to show whether the broker is complying with the provisions of the division [Personal Property Brokers]

Section 22407 requires personal property brokers to preserve their records for at least two years

Section 24406 requires small loan licensees to keep their books so as to show whether the licensee is complying with the provisions of the division [Small Loans]

Section 24407 requires a small loan licensee to preserve for at least two years their records and books

FISH AND GAME CODE

Section 3086 requires cold storage and frozen food locker plants to keep a record of all game birds or mammals stored in such plants

Section 6652 requires those harvesting kelp to keep a record of the weight of all kelp harvested

Sections 8011 and 8012 prescribe the contents of records required to be made by fish processors

Section 8014 prescribes the disposition of copies of records required to be made by fish processors

Section 8015 requires a fish processor who catches his own fish to make certain records

Section 8016 prescribes the contents of the records required to be kept by certain classes of fishermen

Section 8043 prescribes the contents of records required to be kept by certain persons dealing in fresh fish

GOVERNMENT CODE

Section 127 requires the State Lands Commission to keep an index of the records of state lands the jurisdiction of which was ceded to the U S under Section 126 and requires said index to include the degree of said jurisdiction

Section 1173 requires the Department of General Services to direct the manner and form in which each state agency keeps the records incidental to the withholding of tax funds

Section 1229 allows any public officer, during a proclaimed extreme emergency, to take any action necessary for the safekeeping of records in his custody

Section 1453 requires official bonds to be recorded in a book entitled "Record of Official Bonds"

Sections 1454 and 1455 require all official bonds of state officers to be filed in the office of the Secretary of State.

Section 1456 requires the official bond of the Secretary of State to be filed in the office of the State Treasurer.

Section 1457 requires that all official bonds of county or judicial district officers be filed in the county clerk's office

Section 1459 requires that the official bond of the county clerk be filed in the office of the county treasurer

Section 1460 requires the officers with whom official bonds are filed to keep such bonds

Section 1460 1 requires the officers with whom an official bond is filed to keep such bond for one year after the expiration of the term of office for which the bond was issued and allows destruction thereof thereafter.

Section 4003 requires the engineer in charge to keep an account of the cost of a public work.

Section 8213 requires a county clerk to keep for one year a notary public's bond filed with him and allows the clerk to destroy said bond thereafter

Section 4004 requires the engineer in charge to prepare and file in his office complete specifications and cost of a public work

Section 5004 requires the treasurer of a municipal corporation to keep a record book of registered public bonds

Section 7202 prescribes the duties of certain officers, concerning the disposition of notices concerning federal tax liens filed with them

Section 8206 requires notaries public to keep a record of their official acts.

Section 8953 requires the Joint Legislative Ethics Committee to keep a record of its investigations, inquiries and proceedings

Section 9193 requires the minute clerks of the Senate and Assembly to keep a record of the proceedings of their respective houses

Section 9194 requires the sergeants-at-arms of the Senate and Assembly to keep an account for pay and mileage of the legislators

Section 9354 2 requires the Board of Administration of the Public Employees' Retirement System to keep certain records concerning the retirement of legislators.

Section 9790 requires the Department of General Services to keep a file of all bills, resolutions, journals, and other documents ordered by the Senate or Assembly

Section 9901 requires all who solicit or receive contributions to any organization for the purposes designated in Section 9905 [concerning influencing legislation] to keep certain records

Section 9904 requires the Chief Clerk of the Assembly and the Secretary of the Senate to keep for two years the statements of lobbying contributions and expenditures filed with them

Section 10240 requires the Legislative Counsel to permanently file and record all suggestions of judges on legislation

Section 12030 requires the Governor to keep registers of applications for pardons or commutations of sentence, of statements in capital cases made to him, and of appointments made by him

Section 12031 requires the Governor to keep accounts of expenses and disbursements, and of rewards offered by him

Section 12159 requires the Secretary of State to keep a record of all the official acts of the legislative and executive branches.

Section 12160 charges the Secretary of State with the custody of, among other things, all books and records deposited in his office pursuant to law

Section 12162 requires the Secretary of State to keep a register of all the official acts of the Governor

Section 12163 requires the Secretary of State to keep a record of the official bonds of officers required to file same with him

Section 12164 requires the Secretary of State to keep a record of conveyances made to the state and of articles of incorporation and similar documents filed with his office

Section 12169 requires the Secretary of State to file in his office descriptions of the seals used by the different state officers

Section 12180 requires the Secretary of State to keep a fee book and prescribes the contents thereof

Section 12221 declares the Secretary of State to be the custodian of the public archives

Section 12227 makes the Keeper of the Archives responsible for the preservation and indexing of the material in the State Archives

Section 12326 requires the State Treasurer to keep an account of all money received and disbursed

Section 12412 requires the State Controller to keep all accounts in which the state is interested

Section 12413 requires the State Controller to keep an account between the state and the State Treasurer

Section 12514 requires the Attorney General to keep a docket of all causes in which he is required to appear and prescribes the contents of such docket

Section 12570 requires that the oath of office of special agents and investigators appointed by the Attorney General be kept in the private files of the Attorney General

Section 13904 requires the State Board of Control to keep a record of all its proceedings

Section 14621 declares that the Department of General Services has possession and control of all records and other property held for the benefit of state agencies within the department

Section 14730 requires the Department of General Services to keep an index or record of deeds or other evidence of ownership to all proprietary lands owned by the state

Section 14741 defines "record" as used in the State Records Management Act

Section 14755 forbids any agency to destroy any record unless the Director of General Services determines that the record has no value and the Secretary of State determines that the record is inappropriate for the State Archives

Section 14766 transfers all records in the Central Record Depository to the Department of General Services

Section 14959 requires the Department of General Services to keep a record of all expenditures from the Architecture Revolving Fund

Section 15605 requires the secretary of the Board of Equalization to keep a record of the board's proceedings

Section 15606 requires the Board of Equalization to keep a record of all its proceedings.

Section 16416 requires the State Controller to keep a record of federal flood control money received each month

Section 16725 requires the State Controller, the State Treasurer, and others to keep a record of all their proceedings under the appropriate bond act and the General Obligation Bond Law

Section 17005 prescribes the contents required in the register of warrants required to be kept by the State Controller

Section 17071 requires the State Controller to keep a register of canceled warrants

Section 17094 requires the State Controller to make proper entries on his books to show duplicate warrants issued

Section 18653 requires the State Personnel Board to keep minutes of its proceedings and records of its official acts

Section 18704 requires the State Personnel Board to establish and maintain a roster of all persons in the state civil service.

Section 18934 declares that the examination papers of the state civil service are in the custody of that department

Section 20230 prescribes the contents of the records required to be kept, in addition to any other records, by the Board of Administration of the Public Employees' Retirement System.

Section 20230 5 requires the Board of Administration of the Public Employees' Retirement System to keep certain additional records respecting survivor allowances.

Section 24051 requires that annual inventories of county property be kept on file by the county clerk for five years, after which time such inventories may be destroyed on order of the board of supervisors

Section 24352 requires county officers who collect fees to keep a record of such fees

Section 25101 requires the clerk of a county board of supervisors to keep a record of the proceedings of the board.

Section 25102 requires a county board of supervisors to cause to be kept a minute book, an ordinance book, an allowance book, and a warrant book.

Section 25102 1 allows the clerk of a county board of supervisors to keep a resolution book

Section 25104 requires the clerk of a county board of supervisors keep at his office the books, records and accounts of the board

Section 26202 allows a county board of supervisors to authorize the destruction of records after two years

Section 26205 prescribes conditions precedent to the destruction of **county records.**

Section 26205 5 prescribes conditions precedent to the destruction of **records in the custody of a county recorder.**

Section 26205 6 allows a county recorder to destroy an original document, recorded but undeliverable by mail, if the document is uncalled for for 10 years

Section 26803 5 requires a county clerk to keep an active file of regulations and repeals of regulations and to keep available to the public a complete and current set of the California Administrative Code and of the California Administrative Register

Section 26907 allows a county auditor to destroy any five-year-old warrant vouchers where a warrant register is kept

Section 26907 1 allows a county auditor to destroy county school or special district bonds or coupons which have been paid or canceled for five years

Section 26907 2 allows a county board of supervisors to authorize the destruction of copies of county deposit permits or receipts which are five years old.

Section 26908 allows a county auditor, tax collector, or redemption officer to destroy seven-year-old tax rolls in his possession, upon order of the county board of supervisors, and provided a photographic copy of the roll is made

Section 27205 allows, under specified conditions, a county recorder to destroy recorded building contracts and bonds

Section 27206 allows a county recorder to destroy federal tax liens and releases after eight years, provided unreleased liens are microfilmed.

Section 27207 allows a county board of supervisors to authorize destruction of records created under the Land Title Law.

Section 27231 requires a county recorder to keep all records, books, maps, and papers filed in his office

Sections 27232 to 27256, inclusive, require a county recorder to keep indexes of grantors, grantees, mortgagors, mortgagees, releases of mortgages by mortgagors, releases of mortgages by mortgagees, powers of attorney, lessors, lessees, assignors of mortgages and leases, assignees of mortgages and leases, official bonds, mechanics' liens, transcripts of judgments, attachments, notices of pendency of actions, separate property of married women, vital statistics, mining locations and such other indexes as are required in the performance of his official duties

Sections 27257 to 27262, inclusive, allow a county recorder to keep a general index of grantors and a general index of grantees in lieu of any other indexes

Section 27264 requires a county recorder to keep a book called "Record of Patents" containing both U S and state patents of land

Section 27322 requires a county recorder to record all documents required or permitted to be recorded by law

Section 27463 prescribes the contents of the register required to be kept by a county coroner

Section 27463 5 allows a county coroner to keep an official file in lieu of a coroner's register, and allows destruction of the file after five years, provided a micro-photograph is made.

Section 27491 4 prescribes the contents of the record of death required to be made by a county coroner.

Section 34090 allows a city official to destroy, with certain approval, any city record in his charge no longer needed, and enumerates certain records to which this section does not apply

Section 34090 5 allows a city official to destroy any records in his custody if all the enumerated conditions exist

Section 34090 7 allows the governing body of a city to prescribe a procedure by which duplicate city records less than five years old may be destroyed, notwithstanding the provisions of Section 34090

Section 37548 requires boards of museum trustees to keep a record of their proceedings

Section 37608 requires boards of hospital trustees to keep a record of their proceedings.

Section 41608 requires a chief of police to keep a record of fees or other money collected by his department or paid to him in his official capacity.

Section 43688 requires a city to keep separate records and accounts of municipal bond revenues

Section 43778 requires a city clerk to make a minute record of canceled municipal bonds.

Section 43783 requires the legislative body of a city to make a minute record of canceled municipal bonds

Section 43785 requires a city treasurer to make a record of municipal bonds canceled and discharged upon redemption of property

Section 50842 requires a local board of fire men's or police pension fund commissioners to keep a record of its proceedings

Section 53051 requires the Secretary of State and all county clerks to keep a roster of public agencies.

Section 60200 allows the legislative body of any special municiapl tax district to authorize the destruction at any time of duplicate records.

Section 60201 allows the legislative body of any special municipal tax district to authorize the destruction of any records which are two years old and not initially kept pursuant to statute

Section 60202 allows the legislative body of any special municipal tax district to authorize the destruction of two-year-old unaccepted bids for construction of public works

Section 60203 allows the legislative body of any special municipal tax district to authorize the destruction of any record not otherwise required to be preserved, provided certain conditions are complied with

Sections 68101 and 68102 require a judge to keep a record of all fines and forfeitures collected

HARBORS AND NAVIGATION CODE

Section 8 requires any records required by this code to be in writing in English unless otherwise provided

Section 3803 requires the Board of Harbor Commissioners for Humboldt Bay to keep certain records concerning steam and sailing vessels entering or leaving Humboldt Bay

Section 6960 requires the auditor of a river port district to keep a record of all claims against the district

Section 6961 requires the treasurer of a river port district to keep a register of claims against the district which are unpaid because of insufficient funds

HEALTH AND SAFETY CODE

Section 8 requires records required by this code to be written in English, unless otherwise provided.

Section 119 requires the Department of Public Health and the State Controller to keep a record of the classes and sources of income deposited in the Public Health Federal Fund or disbursed therefrom

Section 460 allows a board of supervisors to authorize the destruction or disposition to a medical library of any X-ray photographs and case records of a county health office if such records and X-rays are more

than five years old and if such X-rays do not show the presence of a communicable or infectious disease

Section 1457 requires the superintendent of any county hospital to keep records as prescribed by the Department of Public Health

Section 2103 requires every bird band issuing agency to keep sales records as required by the State Board of Public Health

Section 3226 allows a health officer to destroy after two years any copies of laboratory reports [of prenatal syphilitic tests] filed with him pursuant to the section.

Section 3381 requires that a child's parent or guardian be given a written record of a poliomyelitis immunization required as a prerequisite to school admission.

Section 7204 requires all persons receiving unclaimed dead for educational purposes to keep a permanent record of bodies received and prescribes the contents of said record.

Section 7500 requires a person who removes remains from a cemetery and the cemetery to keep certain records concerning the disinterment.

Section 7501 requires a local registrar to retain for one year copies of disinterment permits issued by him

Section 7955 requires a cemetery authority to keep on file in its office a map or plat of the cemetery plots

Section 8004 requires a county to keep in the office of the board of supervisors records of all remains reinterred after removal from an abandoned county cemetery

Section 8110 requires the person in charge of any premises on which interments or cremations are made to keep a record of all remains interred or cremated

Section 8128 requires the governing body having control of any public cemetery to require the sexton to keep a register of interments

Section 8330 requires private cemeteries to keep a record of all interments

Section 8331 requires a private cemetery authority to keep a record of ownership and transfers of ownership of all plots in the cemetery

Section 8747.5 requires private cemeteries to keep books, accounts, and records of general and special care funds.

Section 10007 requires the person in charge of any institution to which persons are admitted for treatment or confinement to make for each patient a record adequate for the completion of a birth or death certificate

Section 10035 requires the State Registrar to keep a permanent index of certificates of birth, death, and marriage

Section 10036 allows the State Registrar to destroy certificates of birth, death, and marriage, provided enumerated requirements are met.

Section 10038 allows preliminary divorce, annulment and separate maintenance reports to be destroyed after five years, provided a final report is filed.

Section 10064 allows a local registrar to destroy after one year his copies of the records, provided the State Registrar and the county recorder have on file the originals and copies

Section 10065 authorizes county recorders to receive and retain original records or abstracts of births and deaths filed prior to July 1, 1905.

Section 10067 allows a county recorder to dispose of the birth and death records mentioned in Section 10065, provided certain conditions are met.

Section 10379 allows a local registrar to destroy after one year the permits (for disposition of human remains) filed with him pursuant to the section.

Section 11166 10 requires a prescriber of narcotics prescriptions to keep for two years copies of same

Section 11166.11 requires one who fills a narcotics prescription to retain the original.

Section 11175 requires one who fills a prescription to keep it on file for three years.

Section 11225 requires one who prescribes, administers, or dispenses a narcotic to keep a record of the transaction and lists the contents required in such record.

Section 11226 requires that the narcotic record required by Section 11225 be kept for two years.

Section 11572 requires all wholesalers, wholesale jobbers, and manufacturers to keep written orders and blank forms required to be kept by a federal law (26 U S C A (Sec 4705) I R C 1954)

Section 11573 requires the written orders and blank forms required by Section 11572 to be kept for three years

Sections 11682 to 11684, inclusive, requires judges and magistrates to keep a record of fines they collect for narcotics violations

Section 12121 requires one who sells or disposes of explosives to keep for three years a record of such disposition

Section 12122 prescribes the contents of the records required by Section 12121

Section 12123 requires that the records required by Section 12121 be kept at the principal office of the person required to keep them

Section 12124 exempts from Section 12121 persons who have a delivery service permit from the California Highway Patrol

Section 20078 requires a board of police commissioners of a police protection district to keep a record of all its acts and proceedings

Sections 25825 and 25826 require one who acquires, possesses, or uses a source of ionizing radiation to keep certain records

Section 26289.5 requires applicants for the sale or distribution of drugs to keep such records as the State Board of Public Health may require

Section 28013 requires holders of horsemeat licenses and retailers of horsemeat to keep certain records

Section 28132 requires cold storage licensees to keep a record of receipts and withdrawals of articles of food

Section 28336 requires one who prepares walnuts for human consumption to keep records of the preparation thereof

Section 28616 1 requires the operator of a mobile unit upon which food is prepared to keep certain records.

Section 28716 requires operators of frozen food lockers to keep certain records

Section 37037 names the Director of Housing and Community Development as the Secretary of the Commission of Housing and Community

Development and requires him to keep the minutes and records of the commission's proceedings

INSURANCE CODE

Section 8 requires any records required by this code to be in writing in English unless otherwise provided

Section 1727 requires every insurance broker to keep records of all insurance transacted by him and prescribes the content of such records

Section 1728 requires a resident insurance broker to keep the records referred to in Section 1727 in his principal office, except with respect to any business transacted on a direct billing basis

Sections 1745 and 1747 deal with disciplinary actions to be taken for failure to keep records as required.

Section 1768 requires surplus line brokers to keep certain enumerated records of the business transacted by them

Section 1857 requires joint underwriters and joint reinsurers to keep certain records

Section 12073 requires a county clerk to keep an index of certified admitted surety insurers

Section 12925 requires the Insurance Commissioner to keep a permanent record of all his proceedings.

LABOR CODE

Section 8 requires any records required by this code to be in writing in English

Section 58 places the Department of Industrial Relations in possession and control of all records of the commissions and offices of the department

Section 126 requires the Division of Industrial Accidents including the administrative director and appeals board to keep in their respective offices minutes of all their proceedings and other books and records

Section 135 allows the appeals board of the Division of Industrial Accidents to destroy any file kept in connection with a proceeding under Division 4 (commencing with Sec 3201) [Workmen's Compensation and Insurance] or Division 4 5 (commencing with Sec 6100) [Workmen's Compensation and Insurance State Employees Not Otherwise Covered]

Section 353 requires an employer to keep a record of all gratuities given to or left for an employee and received by the employer

Section 1174 requires all employers to keep payroll and certain other records of all women and minors employed

Section 1175 makes it a misdemeanor to neglect or refuse to keep the records required by Section 1174.

Section 1197 5 requires an employer of male and female employees to keep certain records (so as to show equality of wage rates) for two years

Section 1299 requires a person employing minors under the age of 18 to keep certain files and records

Section 1353 requires an employer to keep a record of the names and addresses of, and the hours worked by, each female employee

Section 1776 requires a contractor or subcontractor to keep a record of the name and daily wages paid to each workman employed by him in connection with a public work

Section 1812 requires a contractor or subcontractor to keep a record of the daily and weekly hours worked by each workman employed by him in connection with a public work

Section 1814 makes it a misdemeanor to neglect to comply with Section 1812.

Section 1852 requires a contractor or subcontractor to keep a record of the citizenship of each workman employed by him in connection with a public work.

Section 2665 requires a person who uses the services of industrial homeworkers in this state to keep certain records

MILITARY AND VETERANS CODE

Section 8 requires any record required by this code to be in writing in English unless otherwise provided

Section 171 requires the Commanding General of the State Military Forces to keep a register of all officers of the State Militia and to keep in his office all records required to be filed and kept therein

Section 948 requires the clerk of a county board of supervisors to keep a record book concerning deceased veterans

Section 996 36 requires the State Controller, the State Treasurer and the Veteran's Finance Committee of 1943 to keep a record of all their proceedings under the article (on the Veterans Bond Act of 1954).

Section 1026 requires the records kept by the Veterans' Home of California to conform to the requirements of the United States Veterans' Administration.

Section 1027 requires the Commandant of the Veterans' Home of California to keep a register of all veterans admitted and prescribes the contents of such register

Section 1198 5 requires the board of directors of a veterans' memorial district to provide for the safekeeping of all records

PENAL CODE

Section 900 requires the county clerk to file in his office the list of grand jurors selected for duty.

Section 1203 10 requires a probation officer to keep certain records of persons released on probation until five years after termination of the probation

Section 1413 requires the clerk in the police office of an incorporated city or town to keep a record book of property alleged to be stolen or embezzled and brought into the office

Section 2081 requires the Director of Corrections to cause a register to be kept at each penal institution of institutional violations and prescribes the contents required in such register

Section 2081 5 requires the Director of Corrections to keep a case record of all prisoners under the custody of the Department of Corrections

Section 2725 requires the Director of Corrections to keep records concerning the manufacture and sale of jute goods at San Quentin

Section 2943 requires a paroling authority to make a written record of its determination to fully discharge a parolee

Section 3402 requires that certain records of inmates be kept at the California Institution for Women.

Section 4019.5 requires any public official in charge of a place of detention to keep a record of all disciplinary infractions and of the punishment inflicted therefor

Section 12073 requires a person engaged in the business of selling or transferring firearms capable of being concealed on the person to keep a register of each sale and purchaser

Sections 12074 to 12077, inclusive, deal with the form and method of registering a concealable weapon

Section 12250 requires a record to be kept of all sales of machine guns under the authority of a license to make such sales

Section 12350 requires a person engaged in the business of selling pistols other than those capable of being concealed on the person to keep a register of each sale and purchaser

Section 13020 requires several named public officers and agencies to keep, at the request of the Attorney General, records needed for the correct reporting of data required by the Bureau of Criminal Statistics

PROBATE CODE

Section 925 requires an executor or administrator to keep or file with the county clerk vouchers for all payments made and allows him or the clerk to destroy such vouchers after one year or three years depending on whether a request to retain the vouchers has been filed

Section 1151 requires a public administrator to keep a "Register of Public Administrator," prescribes the contents of such register, and allows the administrator to microfilm any portion of such register and destroy the original after five years

PUBLIC RESOURCES CODE

Section 8 requires any record required by this code to be in writing in English

Section 605 places the Department of Conservation in possession and control of all records, books, and papers of any department or office whose functions have been transferred to the department

Section 3210 requires the owner or operator of any gas or oil well to keep or cause to be kept a log, core record, and history of the drilling of the well

Sections 3211 to 3213, inclusive, prescribe the contents of the log, core record, and drilling history required by Section 3210

Section 5557 requires the board of directors of a regional park district to keep its maps, plans, documents, accounts and other records in a suitable office

Section 5557.1 allows the board of directors of a regional park district to authorize at any time the disposition or destruction of any duplicate record, the original or a photocopy of which is on file

Section 5557.2 allows the board of directors of a regional park district to authorize the destruction of any record which is more than five years old.

Section 6207 requires the State Lands Commission to keep certain records in relation to each class of state lands.

Section 6208 requires the State Lands Commission to keep plats of each class of state lands

Section 7405 requires the State Lands Commission to keep on file a statement showing the makeup of bases for indemnity selections of lands from the United States

Section 7732 requires the State Lands Commission to keep record books of all land patents

Section 9048 places the Division of Soil Conservation in possession and control of the records of the State Soil Conservation Commission.

PUBLIC UTILITIES CODE

Section 8 requires any record required by this code to be in writing in English unless otherwise provided.

Section 308 requires the secretary of the Public Utilities Commission to keep a record of the proceedings of the Commission

Section 313 allows the Public Utilities Commission to require a public utility to produce records kept out of the state

Section 791 requires each public utility to keep in an office in this state the records required of it by the Public Utilities Commission

Section 792 allows the Public Utilities Commission to establish a system of accounts and to prescribe the forms of such accounts and of other records.

Section 793 requires that certain accounts systems established by the Public Utilities Commission be consistent with forms and systems established under the regulatory authority of the United States.

Section 794 declares it unlawful for a public utility to keep other records than those established by the Public Utilities Commission, except supplemental records

Section 1706 requires that a record be taken of proceedings and testimony on a formal hearing before the Public Utilities Commission or any commissioner

Section 1902 requires any order, authorization, or certificate issued by the Public Utilities Commission under the enumerated sections to be in writing and entered on the records of the Commission.

Section 3701 requires each highway permit carrier maintaining an office in this state to keep therein all records required to be kept in this state

Section 3703 allows the Public Utilities Commission to prescribe the forms of accounts and records required to be kept by highway permit carriers and the length of time such records are to be kept

Section 3704 declares it unlawful for a highway permit carrier to keep other records than those prescribed by the Public Utilities Commission, except supplemental records

Section 3708 requires a farmer exempt from the provisions of the chapter [on Reports, Records, and Inspections] to keep a record of each time he transports farm products of neighboring farmers and his compensation therefor

Section 4874 requires motor transportation brokers to keep for two years a record of their transactions

Section 5221 requires each household goods carrier maintaining an office in this state to keep therein all records required to be kept in this state.

Section 5223 allows the Public Utilities Commission to prescribe the forms of accounts and records required to be kept by household goods carriers

Section 5224 declares it unlawful for a household goods carrier to keep other records than those required by the Public Utilities Commission, except supplemental records

Section 7579 requires the Secretary of State to keep a record book of contracts authorized by the article [on Conditional Sales of Railroad Equipment]

Section 7905 requires the Public Utilities Commission to issue regulations requiring every telephone corporation to keep records of each instance where an employee discovers any device installed to overhear communications over the corporation's lines

Section 15533 requires that, when a public utility district becomes annexed to a city, the records of the district be transferred by the board of directors to the legislative body of the city

Section 16604 prescribes the contents of the books of account of a public utility district

REVENUE AND TAXATION CODE

Section 8 requires any record required by this code to be in writing in English

Section 109 6 requires that, when no physical document of an extended assessment roll is prepared, all entries required to be made on the extended roll shall be entered into electronic data processing records

Section 465 allows a county tax assessor to destroy documents containing information obtained from taxpayers when seven years have elapsed since the lien date or when three years have elapsed, when such documents have been microfilmed

Section 601 requires a county tax assessor to prepare an assessment roll

Section 602 prescribes the contents of the assessment roll required to be made by a county tax assessor

Section 834 allows the State Board of Equalization to destroy documents containing information obtained from taxpayers when seven years have elapsed since the lien date

Section 1605 5 requires a county board of equalization to make a record of its proceedings

Section 1612 requires the clerk of a county board of equalization to keep a record book of all changes in the assessment roll made by the board

Section 2614 requires a county tax collector to make a record on the tax roll or delinquent roll of the fact and date of payment

Section 2615 3 allows a county tax collector with the approval of the board of supervisors, to establish a procedure for making and keeping a record of individual tax payments

Section 2910 6 allows a county tax collector, with the approval of the board of supervisors, to establish a procedure for making and keeping a record of individual tax payments

Section 2913 requires the amount of payment on the unsecured tax roll to be marked on the same,

Section 2915 requires a record to be kept of property seized and sold for taxes due on unsecured property.

Section 2928 allows, under certain circumstances, an original unsecured tax roll to be destroyed after five years

Section 4104 5 requires that, when the duties of a redemption officer are transferred from one county officer to another, the abstract list, assessment rolls, and other tax records be surrendered to the new officer

Section 4106 1 allows a county redemption officer, with the approval of the board of supervisors, to establish a procedure for making and keeping a record of individual redemption and installment payments

Section 4107 allows a county redemption officer to destroy 12-year-old redemption certificates

Section 4110 requires a redemption officer to prepare an index record of tax-sold property.

Section 4377 allows a county officer in possession of a delinquent tax roll more than 12 years old or the original secured roll on which it is based to destroy the same, with certain exceptions

Section 7053 requires every seller, retailer, or user of tangible personal property in this state to keep such records as the State Board of Equalization may require

Section 7716 requires the State Controller to keep a record of the motor vehicle fuel license tax determinations of which he is not notified by the State Board of Equalization

Section 8126 requires the State Board of Equalization to make record of overpayments of motor vehicle fuel license taxes

Section 8301 requires distributors of motor fuel to keep certain records which the State Board of Equalization may require

Section 8302 requires distributors of motor fuel to keep an inventory record

Section 8303 requires producers of motor fuel to keep certain records as the State Board of Equalization may require

Section 8304 requires brokers of motor fuel to keep certain records of sales and purchases

Section 9151 requires the State Board of Equalization to make record of any determination of overpayment of use fuel taxes

Section 9196 requires the State Board of Equalization to make record of any illegal determination of an amount [of overpayment of use fuel taxes] in excess of $1,000

Section 9253 requires dealers, transporters, or storers of fuel to keep such records as the State Board of Equalization may require

Section 10251 requires the State Board of Equalization to make record of any determination of overpayment of motor vehicle transportation license taxes

Section 10321 requires the State Board of Equalization to make record of any illegal determination of an amount [of overpayment of motor vehicle transportation license taxes] in excess of $1,000

Section 10404 requires every operator [as defined by Section 9603] to keep a record of all gross receipts from his operations

Section 10405 allows the State Board of Equalization to prescribe the forms of all returns and records of gross receipts under the motor vehicle transportation license tax law

Section 10454 requires the State Controller to keep a record of payments of motor vehicle transportation license taxes

Section 11401 requires the State Board of Equalization to make record of taxes levied on private railroad cars.

Section 11428 requires the date and nature of a correction of the amount of private railroad car tax due to be entered in the records of the State Board of Equalization

Section 11551 requires the State Board of Equalization to make record of any determination of overpayment of private railroad car taxes

Section 11596 requires the State Board of Equalization to make record of any amount of private railroad car tax illegally assessed.

Section 11652 requires persons subject to the private railroad car tax to keep such records as the State Board of Equalization may require.

Section 11653 requires railroad companies with lines in this state to keep such records as the State Board of Equalization may require

Section 12435 requires the State Controller to keep a record of all deficiency assessments (for insurance tax) and payments thereon.

Section 12951 requires the State Board of Equalization to make record of illegal assessments of an amount [of insurance taxes] in excess of $1,000.

Section 12977 requires the State Board of Equalization to make record of any erroneous or illegal collection or computation of insurance taxes

Section 19052 requires that the Franchise Tax Board make record of a determination that an amount not exceeding $1,000 was not required to be refunded as an overpayment of personal income tax

Section 19131 requires the Franchise Tax Board to make record of the reasons for an illegal levy of personal income tax

Section 19281, with certain exceptions, requires the Franchise Tax Board to keep reports and returns of personal income tax for four years after the due date and thereafter until it orders them destroyed

Section 25402 requires the Franchise Tax Board to keep a record of extensions of time granted for filing bank and corporation tax returns

Section 25801 requires the Franchise Tax Board to make record of the reasons for an illegal levy of bank and corporation taxes.

Section 30453 requires dealers, distributors, transporters, and storers of cigarettes to keep such records as the State Board of Equalization may require

STREETS AND HIGHWAYS CODE

Section 8 requires any records required by this Code to be in writing in English

Section 77 5 requires the State Lands Commission to maintain a permanent public record of acceptances by the Governor of retrocessions of highway easements from the United States.

Section 104 8 allows the Department of Public Works to retain in its records deeds or other evidence of real property interests acquired by the Department under this Code.

Section 128 requires the Department of Public Works to maintain in each district office of the Division of Highways a file of its final

construction plans and right of way record maps for completed state highway projects in the district

Section 129 requires a county recorder to keep a record of state highway plans designated "State Highway Map Book No._____, County"

Section 908 requires the clerk of a county board of supervisors to make a part of the minutes of the board all its proceedings relative to each road district or county highway and requires said clerk to also keep a road register, the contents of which are prescribed

Section 2859 requires the clerk of the legislative body of a city, county, or other public corporation to keep on file the reports and reports on hearings concerning a public acquisition or improvement.

Section 3111 requires the clerk of the legislative body of a city adopting an assessment district to keep the original map of said district in his office

Section 4289 requires a street superintendent to keep in his office a record of assessments and diagrams (for street openings) (under the Street Opening Act of 1903) confirmed by the county or city legislative body

Section 4342 requires a street superintendent to keep on file in his office copies of his certificates of sale of property for delinquent assessments (under the Street Opening Act of 1903)

Section 4345 requires a street superintendent to make a record on his copy of the sale certificate of a redemption of property sold for a delinquent assessment (under the Street Opening Act of 1903)

Section 4399 requires a street superintendent to make a record of a reassessment (under the Street Opening Act of 1903)

Sections 4590, 4591, and 4593 require a city treasurer to keep a record of bonds (issued under the Street Opening Bond Act of 1911), of payments of principal and interest on account of, and of discharge of such bonds

Section 4656 requires a city treasurer to keep a record of certificates of property sold to cover delinquent bonds (under the Street Opening Bond Act fo 1911)

Section 5372 requires that, under the Improvement Act of 1911, warrants, diagrams and assessments be on record in the office of the street superintendent

Section 5391 requires a street superintendent to record in his assessment book all contractors' statements of payments received upon assessments

Section 5508 requires a street superintendent to make record of a reassessment (under the Improvement Act of 1911)

Section 5557 requires a street superintendent to make record of confirmed reassessments (under the Improvement Act of 1911)

Section 5680 requires a superintendent of streets to keep such records as may be required of him by the Improvement Act of 1911

Section 5685 requires a superintendent of streets to keep a record of the service of all notices served by him or with his permission

Section 5700 requires an engineer (as defined by Section 5013) or engineer of work to keep a record of all surveys made under the Improvement Act of 1911

Section 5721 requires that a confirmed assessment and warrant (under the Improvement Act of 1911) be recorded in the office of the county surveyor

Section 6425 requires city and county treasurers to keep a register of bonds (issued under the Improvement Act of 1911) and to keep on file the bond coupons paid by them

Section 6445 requires city and county treasurers to keep a record of all bonds issued by them, of all payments, including dates, on the bonds, and of all penalties accruing thereon

Section 6448 requires city and county treasurers to keep a record of the amount and date of payment of a bond to the holder and to file the cancelled bond in their offices

Section 6511 requires city and county treasurers to keep a record book of delinquency sales (under the Improvement Act of 1911) and prescribes the contents of such book

Section 6516 requires city and county treasurers to make record of tax payments by holders of certificates of a delinquency sale

Section 6532 requires city and county treasurers to make record of redemptions of delinquent property

Section 6552 requires city and county treasurers to keep on file the affidavits of notice given which are required for the conveyance of unredeemed property

Section 6632 requires city and county treasurers to make record of the reinstatement of an improvement bond

Section 6766 requires a street superintendent to make record of certificates of completion (of improvements of railway roadbeds)

Section 6767 requires a street superintendent to make record of a contractor's statement that the contract price of a railway roadbed improvement has not been paid

Section 8672 requires city and county treasurers to keep a register of bonds (issued under the Improvement Bond Act of 1915) and to keep each cancelled bond and paid coupon.

Section 8682 requires that city and county auditors keep certain records concerning unpaid assessments (under the Improvement Bond Act of 1915)

Section 10401 requires that diagrams and assessments (under the Municipal Improvement Act of 1913) be recorded with a street superintendent or county surveyor

Section 10600 requires the recordation of assessments (under the Municipal Improvement Act of 1913) in the offices of certain officials

Section 30805 requires franchised operators of toll road, toll bridges, or toll ferries within this state to keep certain accounts

Section 31629 declares the assessment procedure for the Parking District Law of 1943 shall be the same as that of the Street Opening Act of 1903 (See Sections 4289, 4342, and 4345, *supra*)

Section 31641 requires a superintendent of streets to make, 30 days from the recording of an assessment (under the Parking District Law of 1943), a list of all assessments unpaid, except those on public property

Section 31746 requires a street superintendent to make record of a reassessment (under the Parking District Law of 1943).

UNEMPLOYMENT INSURANCE CODE

Section 8 requires any record required by this code to be in writing in English

Section 986 requires, with one exception, an employer to show on his payroll records the deduction from wages of a worker's contribution to unemployment insurance

Section 1085 requires an employing unit to keep certain records of workers, wages, and such other information as the Director of Employment deems necessary

Section 1089 requires employers to keep, accessible to employees, statements concerning benefits as may be prescribed by authorized regulations

Section 1093 declares the effect of a failure to keep and furnish required records or reports

Section 1096 allows, on specified conditions, employers to appoint an agent who may maintain required records

Section 1952 requires the Unemployment Insurance Appeals Board to keep a complete record of all proceedings in connection with disputed claims.

Section 3267 requires an employer whose employees are participating in an approved voluntary disability insurance plan and any insurer of an approved plan to make available to the Department of Employment such records as the Director of Employment may require

VEHICLE CODE

Section 9 requires any record required by this code to be in writing in the English language

Section 1502 gives the Department of Motor Vehicles possession and control of all records held for the benefit or use of any state agency mentioned in Section 1501

Section 1800 requires the Department of Motor Vehicles to keep certain records of driver's licenses and of the registration of each vehicle and to file each application for registration and driver's licenses.

Section 1801 allows the Department of Motor Vehicles to maintain any required registration and license records by electronic recording and storage media

Section 1806 requires the Department of Motor Vehicles to keep a record and file of accident and conviction reports

Section 1807 allows the Department of Motor Vehicles to destroy, with the approval of the Department of General Services, records not required to be maintained, and defines such records

Section 1818 requires any conviction record or information from any record kept by the Department of Motor Vehicles to contain a notation of the commercial or noncommercial nature or the license plate numbers of the vehicle involved

Section 2104 declares the Department of the California Highway Patrol to have possession and control of all records of the former Division of Enforcement of the Department of Motor Vehicles

Section 2900 declares the scope of the California Traffic Safety Program to include provisions for an effective record system of accidents and injuries and deaths resulting therefrom

Section 8009 requires proportional registration applicants permitted to operate interchanged trailers to keep certain records of the use of such trailers

Section 8160 requires proportional registration applicants to keep for four years the records upon which their application is based.

Section 10650 requires keepers of garages or trailer parks to keep certain records of vehicles stored for compensation for longer than 12 hours

Section 11108 requires licensees under the division [on Occupational Licensing and Business Regulations] to keep certain records of persons given instruction and of the type of instruction given

Section 11520 requires automobile dismantlers to keep certain records of all vehicles acquired for dismantling

Section 13206 requires a court suspending a person's driving privilege to endorse on the back of his license a record of the suspension

Section 14609 requires a person renting a motor vehicle to another to keep certain records of the vehicle and renter

Section 17458 requires the Director of the Department of Motor Vehicles to keep a record of process served upon him under the article [on Service of Process]

Section 31609 requires an operator of a vehicle transporting explosives to make records of inspections of the vehicle under the division [on Transportation of Explosives]

WATER CODE

Section 8 requires any record required by this code to be in writing in English, unless otherwise provided.

Section 187 requires the State Water Resources Control Board, regional water quality control boards, the Department of Water Resources, and other state agencies to exchange records so that duplication of effort be avoided

Section 226 allows the Department of Water Resources to collect records of the diversion and use of water

Section 411 requires rain-making and rain-prevention licensees to keep certain records of their operations

Section 1053 requires the State Water Resoucres Control Board and the Department of Water Resources to keep on file in their offices a complete record of business or acts performed or of testimony taken by the board and department under the division (on water)

Section 2554 requires that maps made of stream investigations be filed and made of record in the office of the State Water Resources Control Board

Section 6101 allows the Department of Water Resources to require owners of dams and reservoirs to keep certain records

Section 6202 requires that applications for new dams and reservoirs include streamflow and floodflow records

Section 8563 requires the Reclamation Board to keep minutes of all proceedings and transactions

Section 8697 requires all maps, records, and engineering data prepared for the Reclamation Board by the Department of Water Resources to be deposited in the office of the board and to remain part of the board's records.

Section 9505 requires the Reclamation Board to keep a bond record of the drainage district

Section 9506 requires that separate records be kept with respect to each bond issue under the Reclamation Board Bond Act

Section 11155 requires the State Controller, State Treasurer, and the Department of Water Resources to keep account and record of all their proceedings under the part (on the Central Valley Project)

Section 11419 requires the Department of Water Resources to keep complete accounts and an annual balance sheet concerning the Central Valley Project

Section 12515 requires the Colorado River Board to maintain all records of the board or copies of them at its office

Section 20060 requires the State Controller to provide for the filing and preserving of the bond certification approval report of the Districts Securities Commission and to provide for the making and preserving of a prescribed record of bonds certified by him

Section 21403 allows the records of an irrigation district to be microfilmed and certified upon the authorization of the board of directors of the district

Sections 24654 and 24660 require the treasurer of an irrigation district to keep certain records regarding registered warrants

Section 25504 requires the assessor of an irrigation district to prepare an assessment book

Sections 25505 to 25507, inclusive, and Section 25525 prescribe the contents of the assessment book of an irrigation district

Section 35953 requires the treasurer of a water district to make a record of all bonds received by him from the board of directors of the district

Section 43159 requires the Department of Water Resources, the Districts Securities Commission, and the board of directors of a water storage district to keep record books of all their acts and transactions and to keep on file in their respective offices a duplicate of all contracts and written agreements executed by them

Section 44751 requires the treasurer of a water storage district to make a record of the sale of district bonds

Section 50941 requires that all records of a reclamation district be kept in the district office

Section 51324 requires the valuation assessment commissioners of a reclamation district to prepare an operation and maintenance assessment roll containing the prescribed information

Section 51327 requires that the operation and maintenance assessment roll to be filed in the office of the clerk of the board of supervisors of the principal county of a reclamation district

Section 75800 requires the board of directors of a water conservation district to make an entry in the minutes of the board if the board changes the boundaries of the district

Section 75812 requires a bondholder's assent to release of land from the lien of outstanding bonds to be recorded in the minutes of the board of directors of a water conservation district

WELFARE AND INSTITUTIONS CODE

Section 8 requires any record required by this code to be in writing in English

Section 148 6 requires every organization qualified under Section 148 3 to solicit donations of salvageable personal property to keep records of the proceeds of the sale of such property and of the amounts devoted to charitable purposes

Section 4018 requires the Department of Mental Hygiene to adopt books of record and clinical record forms for all hospitals

Section 4019 requires the Department of Mental Hygiene to keep in its office a record of each patient in custody in an institution and prescribes the contents of such record

Sections 6000 and 6002 require the superintendent of a state mental hospital and the person in charge of a private institution to forward to the Department of Mental Hygiene the records of persons voluntarily admitted

Sections 6705 and 6705 5 require a court which directs a charge for the support of a person confined under Section 6406 or committed to an industrial farm, road camp or county jail (for addiction to habit-forming drugs) to designate a county officer to keep certain records concerning such charge

Section 7012 requires every private institution licensed by the Department of Mental Hygiene for the care and treatment of the mentally disordered or incompetent to keep records of persons admitted thereto and requires every establishment for the mentally disordered or incompetent to keep on file the recommendations made by the department as a result of visits and examinations

Section 10851 authorizes a county board of supervisors to authorize the destruction or disposition of the case history of any recipient of public assistance who has not received such assistance during the previous five years

Section 10853 requires persons subject to the jurisdiction of the Department of Social Welfare to keep such records as the director of the department may require.

Section 10964 requires the Department of Social Welfare to compile a digest of decisions rendered under the chapter [on Hearings]

Section 11061 requires a record be filed, in the office of the Chief of the Division for the Blind in the Department of Social Welfare, of the action of a county board of supervisors in granting or refusing aid to each blind applicant.

Section 11478 5 establishes a central registry of records in the Department of Justice showing certain information concerning any parent who has deserted or abandoned any child

Section 17006 requires a county board of supervisors to keep records of the investigation, supervision, and rehabilitation of persons applying for or receiving county relief.

Section 18491 requires a county board of supervisors to keep records of the investigation, supervision, and rehabilitation of persons applying for or receiving relief under the Relief Law of 1945.

DEERING ACTS (General Laws)

Act 881j, Section 22 (Refund Assessment Bond Act of 1935, Stats. 1935, Ch 732) requires city and county auditors to keep a record of the installments of principal and interest to be collected on assessments in each year during the term of refunding bonds issued

Act 5727, Section 1 (Initiative Measure · Stats. 1923, p xciii) · see Business and Professions Code, Sections 3600-1 and 3600-2.

Act 6382, Section 11 (California State Park Bonds Act of 1927, Stats 1962, 1st Ex Sess, Ch 48) requires the State Controller and the State Treasurer to keep full account and record of all their proceedings under this act.

Act 7560, Section 15 (Sewer District Revenue Bond Act of 1939; Stats 1939, Ch. 532) requires city and county treasurers to keep records of all parcels sold for delinquent taxes under this act

Act 7560, Section 16 (Sewer District Revenue Bond Act of 1939; Stats. 1939, Ch 532) requires cities, counties and municipalities issuing revenue bonds under this act to keep books of record and account relating to this act, and to keep them separate from all other records and accounts.

Act 9081, Section 1 (Stats 1943, Ch 222) abolishes the Waste Utilization Commission and transfers all records of the commission to the Department of Agriculture.

CONSTITUTION OF THE STATE OF CALIFORNIA

Article IV, Section 7, requires each house of the State Legislature to keep and publish a journal of its proceedings

STATUTES

Statutes 1953, Chapter 1859, Section 3, requires all records and other documents, relating to beach erosion control, of the Department of Natural Resources to be transferred to the Division of Water Resources of the Department of Public Works

APPENDIX G

OFFICE OF THE ATTORNEY GENERAL
State of California

THOMAS C. LYNCH, *Attorney General*

Opinion of Thomas C. Lynch, Attorney General; Ronald V. Thunen, Jr., Deputy Attorney General—No. 67/144; April 7, 1970

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun has requested an opinion on the following questions:

1 Must the Board of Pilot Commissioners make available for public inspection any or all of the following categories of records, or may they be kept confidential?

(a) Application and personnel files

(b) Accident files

(c) All other files of the board

2 May the Board of Pilot Commissioners impose a requirement that persons wishing to inspect material on file with it do so only in the presence of a commissioner or an employee of the Pilot Commission and only at reasonable hours?

The conclusions are

1 As a general rule, all records of the Board are open to public inspection unless the specific exceptions enumerated in Government Code sections 6254 and 6255 apply Specifically, the application and personnel files are generally open to public inspection except for those portions which were received in confidence from members of the public either as complaints or as part of an investigation or which deal with the pilot or pilot-candidate's private, rather than professional life As to the accident files such files are confidential.

2 The Board of Pilot Commissioners may require that persons wishing to inspect Board files do so only in the presence of a commissioner or an employee, but this requirement may not be used to materially reduce the periods in which the records are available to the public which are specified by statute to be "during office hours."

ANALYSIS

The California Public Records Act, Chapter 3 5 of Division 7 of Title 1 of the Government Code, § § 6250–60,[1] is the basic source of California law on the general question of public access to records of State and local agencies The act provides

"6250. "CHAPTER 3 5 INSPECTION OF PUBLIC RECORDS

"In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every citizen of this state

[1] Stats 1968, ch 1473 sec 39 All section references are to the Government Code unless otherwise specified

"6251.

"This chapter shall be known and may be cited as the California Public Records Act.

"6252.

"As used in this chapter

"(a) 'State agency' means every state office, officer, department, division, bureau, board, and commission or other state agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution

"(b) 'Local agency' includes a county; city, whether general law or chartered, city and county, school district, municipal corporation; district, political subdivision; or any board, commission or agency thereof, or other local public agency

"(c) 'Person' includes any natural person, corporation, partnership, firm, or association

"(d) 'Public records' includes all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics

"6253.

"Public records are open to inspection at all times during the office hours of the state or local agency and every citizen has a right to inspect any public record, except as hereafter provided Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section

"6254.

"Nothing in this chapter shall be construed to require disclosure of records that are

"(a) Preliminary drafts notes, or inter-agency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

"(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3 6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

"(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy

"(d) Trade secrets,

"(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

"(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files

compiled by any other state or local agency for correctional, law enforcement or licensing purposes,

"(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination,

"(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency, relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

"(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

"(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes; and

"(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege

"(*l*) In the custody of or maintained by the Governor or employees of the Governor's office employed directly in his office, provided that public records shall not be transferred to the custody of the Governor's office to evade the disclosure provisions of this chapter

"(m) In the custody of or maintained by the Legislative Counsel

"Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection unless disclosure is otherwise prohibited by law

"6255

"The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record

"6256

"Any person may receive a copy of any identifiable public record or shall be provided with a copy of all information contained therein Computer data shall be provided in a form determined by the agency

"6257

"A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, or the prescribed statutory fee, where applicable

"6258

"Any person may institute proceedings in any court of competent jurisdiction to enforce his right to inspect or to receive a copy of any public record under this chapter The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of

the court with the object of securing a decision as to such matters at the earliest possible time.

"6259.

"Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow

"If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court

"6260.

"The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state"

Prior to the enactment of the Public Records Act, California did not have such an omnibus law of public access to official records Section 6250 sets forth the reason for the act when it declares that every citizen has a right of "access to information concerning the conduct of the people's business" This act is the latest in a series of Government Code provisions, among which are the Brown Act, Government Code sections 54950–60, enacted in 1953, which requires local governmental bodies to open their meetings, the unnamed Article 9 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, sections 11120–30, enacted in 1967, which similarly requires State agencies to open their official meetings to the public; and a number of widely dispersed but related code sections dealing with the meetings and records of various specific State agencies which were enacted in 1957 and subsequent sessions and which have been repealed by the California Public Records Act and the 1967 legislation concerning meetings [2] Thus considerable output of legislation represented a pro-

[2] For instance, the Board of Pilot Commissioners was subject to former Harbors and Navigations Code sections 1153 1, concerning meetings, and 1153 2, which provided

"All records of the board shall be open to inspection by the public during regular office hours" Repealed Stats 1968, ch 1473, p 2949

tracted series of attempts by the Legislature to formulate a workable means of minimizing secrecy in government.[3]

The philosophy of such efforts may be seen in section 54950 of the Brown Act

> " . . . the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly
>
> "The people of this State do not yield their sovereignty to the agencies which serve them The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know The people insist in remaining informed so that they may retain control over the instruments they have created "

The basic policy that public records should be open to the public is not new Former Government Code section 1227, (repealed Stats 1968, ch 1473, p 2945) a direct descendent of former Political Code section 1032, enacted in 1872, provided

> "The public records and other matters in the office of any officer, except as otherwise provided, are at all times during office hours open to inspection of any citizen of the State."

Four California cases have set forth the principles by which this broad language has been interpreted

The earliest case *Whelan* v *Superior Court*, 114 Cal. 548 (1896) dealt with the confidentiality of a judgment creditor's instructions to the sheriff regarding an execution levy The court found that the instructions were not a public record because they were "in the nature of the private directions from a principal to this agent " The court further found that they were not "other matters" because "other matters" was found to mean "matter which is 'public', and in which the whole public may have an interest " Finally, the court disposed of the possibility that the material sought constituted a public writing within the meaning of sections 1888, 1892, and 1894 of the Code of Civil Procedure[4] without detailed analysis.

The next important case in this area was *Mushet* v *Department of Pub Service*, 35 Cal App. 630 (1917), which involved inspection of the books of a city-owned electric system The court made a detailed

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[3] It is noteworthy that recent advances in technology have created countervailing considerations for the Legislature Government Code sections 11701 and 11711, enacted in 1968, recognize that the advent of electronic data processing in governmental recordkeeping may pose dangers to rights of privacy by making information too easily accessible The Intergovernmental Board on Electronic Data Processing is assigned to review this problem and recommend suitable protective legislation

[4] Sections 1888, 1892 and 1894 of the Code of Civil Procedure read

"1888

"Public writings are

"1 The written acts or records of the acts of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this State, of the United States, of a sister State, or of a foreign country,

"2 Public records, kept in this State, of private writings

"1892.

"Every citizen has a right to inspect and take a copy of any public writing of this State ,except as otherwise expressly provided by statute

"1894

"Public writings are divided into four classes

"1 Laws,

2 Judicial records,

3 Other official documents,

4 Public records, kept in this State, of private writings"

The above quoted sections were repealed by ch 1473, Stats 1968.

analysis of sections 1888 and 1894 of the Code of Civil Procedure and held that the records sought were not "strictly speaking," public records However, the court held that the books and papers of a municipally owned public utility were open to a citizen of the municipality in the same manner as the books and papers of a corporation are open to one of its stockholders

In *Coldwell* v *Board of Public Works*, 187 Cal 510 (1921), where the documents sought were the working papers in a proposed water project of the City and County of San Francisco, the court held that the preliminary, unapproved plans were not public records within the meaning of sections 1888 and 1894 of the Code of Civil Procedure. However, the court, noting that Political Code Section 1032 (former Gov Code § (1227, *supra*) referred also to "other matters," relied on the definition of "other matters" as enunciated in *Whelan* v *Superior Court*, 114 Cal 548 (1896), (discussed *supra*), and found that the papers constituted "other matters" and should be available for public inspection

Following the *Coldwell* case, the State of California public records law could be summarized as follows The phrase "public records" in Political Code section 1032 was limited to those documents meeting the definitions of "public writings" expressed in Code of Civil Procedure sections 1888 and 1894 To balance this restricted definition, the law also permitted public inspection of certain "other matters" in the office of a public officer if they were matters which were "public" and in which the whole public might have an interest This "other matters" area was also subject to further enlargement by resort to common law principles

The fourth important case in this area was *Runyon* v. *Board of Prison Terms and Paroles*. 26 Cal App 2d 183 (1938), where the papers sought were letters voluntarily submitted by members of the public to the respondent board in connection with parole hearings The court eschewed any excursions into statutory interpretation Instead the court based its holding that the documents sought were confidential and not open to the public upon a rule of public policy; "that certain communications and documents shall be *treated as confidential and* therefore are not open to indiscriminate inspection, *notwithstanding that they are in the custody of a public officer or board and are of a public nature*" (Emphasis added, 26 Cal App 2d at 184) With reference to the papers in question, the court observed that it was essential to secure all possible information bearing on applicants for parole, and that it was only through a promise of confidentiality that most of the information could be obtained

After *Runyon*, a series of Attorney General's opinions[5] enunciated the evolution of an approach to the problem of public access to official records where there was no specific statute covering an agency's records This approach may be broken down into three parts· First, whether the material in question constituted a "public writing" within the meaning of Code of Civil Procedure sections 1888 and 1894, second, whether the material could be "other matter" under former Government Code section 1227, and third, whether the public policy rule of

[5] See 31 Ops Cal Atty Gen 103 (1958), 27 Ops Cal Atty Gen 194 (1956), 18 Ops Cal Atty Gen 231 (1951), 15 Ops Cal Atty Gen 164 (1950), 13 Ops Cal Atty Gen 180 (1949), 11 Ops Cal Atty Gen 41 (1948)

Runyon applied The application of this scheme of analysis on a case by case basis appeared to many persons to be creating (or perhaps merely reinforcing) an attitude of reluctance on the part of various administrative officials to make records in their custody available for public inspection

Evidence of concern for this problem may be found in the 1955 report of a special committee of the State Senate which stated

> "California has its numerous statutes, conflicting court decisions, confused department regulations and obstinate employees to throw obstacles in the path of those who seek to advise themselves of the public's business" Senate Special Committee of Governmental Administration, *Public Records Survey*, 7 (1955)

The committee went on to state

> "In principle there should be no disagreement with the basic premise that all records of governmental agencies should be open to the public excepting those which by disclosure would constitute an invasion of the individual's right of privacy
>
> * * * * * * *
>
> "Additional problems to be considered defining public records involve investigations preliminary to official action by law enforcement agencies, social welfare records including relief rolls, as well as other matters which must be decided individually rather than as a general rule But these considerations do not change the basic premise that the records of the people's government belong to the public and not to the officeholders" Ibid at pp 7–8

Viewed against this background of legislative impatience with secrecy in government, it is clear that the California Public Records Act is intended to be construed liberally in order to further the goal of maximum disclosure in the conduct of governmental operations For instance, the definitions set forth in section 6252 are intended to be as broadly inclusive as possible and reflect a desire to minimize the possibility that records which may properly be made available to the public not be withheld on the basis of a technical categorization Similarly section 6253 sets forth the general rule that *all* public records are open to public inspection

Sections 6254 and 6255 state the exceptions to the rule of section 6253 The same historical evidence which compels the conclusion that the California Public Records Act should be construed broadly also compels the conclusion that these two sections must be construed strictly so as not to interfere with the basic policy of the act The specific exceptions of section 6254 should be viewed with the general philosophy of section 6255 in mind, that is, that records should be withheld from disclosure only where the public interest served by not making a record public outweighs the public interest served by the general policy of disclosure

We turn to the first of the specific issues raised in the request for this opinion; that is, the confidentiality of the pilots' application and personnel files Subsection (c) of section 6254 provides protection from disclosure for "personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy" It is the understanding of this office that a pilot-candidate's application file becomes the nucleus of a pilot's "personnel" file once he is

licensed The application file and the "personnel" file are therefore similar and should be governed by the same rules Two important problems with respect to applying subsection (c) to the files in question remain to be covered. First, are pilots' "personnel" files within the purview of subsection (c), and second, what is "an unwarranted invasion of personal privacy" as far as a pilot is concerned?

Subsection (c) speaks of "personnel, medical, or similar files . . ." Webster's New International Dictionary, 2d ed., defines "personnel" as a body of persons employed in some public service or in a factory or office Pilots are not, of course, employed by the Board of Pilot Commissioners. The relationship between pilots and the Board is one of occupational licensee and licensing agency.[6] However, looking at subsection (c) as an entity, it is clear that the primary concern is the protection of the right to privacy All State occupational and professional licensing agencies necessarily maintain files on their licensees as individuals These files are similar to personnel files in that each contains personal data regarding the individual's background and private life It is unreasonable to assume that the Legislature was solicitous of the privacy of State employees but not of private citizens holding State licenses Therefore, we conclude that a pilot's "personnel" file is a "similar" file within the meaning of subsection (c) of section 6254.

However, section 6254 only protects from disclosures those records the disclosure of which would constitute an unwarranted invasion of personal privacy[7] The right of privacy has been the subject of numerous civil tort cases and is fairly narrowly defined Generally speaking, the right diminishes as an individual's status as a public figure or official increases

The right of privacy is almost entirely non-statutory in the United States and appears to have originated in an article in the Harvard Law Review written by Louis Brandeis and Samuel Warren, *The Right to Privacy,* 4 Harv. L R 193 (1890) That article, which has been cited in virtually every important decision concerning the right of privacy, remains an important source of law in this area

The right to privacy is a complicated right, involving, according to Prosser, at least four separate aspects. (1) Intrusion upon physical solitude or seclusion, (2) public disclosure of private facts, (3) casting the injured party in a false light in the public eye, and (4) appropriation of the injured party's name or likeness for the benefit or advantage

[6] Two California cases, *People ex rel Palmer* v *Woodbury,* 14 Cal 43 (1859), and *Farney* v *Stockton Port Dist,* 12 Cal 2d 653, 659 (1939), speak of pilots as public officers The status of public officer, however, is not necessarily inconsistent with that of occupational licensee The statutory scheme governing the licensing of San Francisco bar pilots as set forth in Harbors and Navigation Code §§ 1150–1193, *clearly does not contemplate* that pilots shall be State employees, which in fact they are not

[7] We recognize that it could be argued that the clause " [T]he disclosure of which would constitute an invasion of personal privacy " is an expression of the reason why the Legislature has protected "personnel, medical, or similar files," rather than a limitation upon the scope of the protection from disclosure Examination of the other subsections of section 6254 reveals that no other subsection contains any clause which can be considered to be a statement justifying the legislative act of withholding a certain class of information from public access On the other hand, many of the subsections contain provisos limiting the scope of the protection conferred As the entire section was enacted at one time, it may be assumed that the clause in question is similarly intended as a limitation Moreover, the language of sections 6250, 6252 and 6253 compels the conclusion that the Legislature desired to open public records to public access as much as possible, that the presumption is that a record is to be open to the public unless clearly shown to be otherwise, and that therefore, the interpretation followed here is more likely to be in harmony with legislative intent

of another. See Prosser *Law of Torts* § 112 (3d Ed 1964) The problem here may be considered as analogous to the problems of the first and second category. Cases involving the second, third, and fourth aspects of this right most commonly involve publication by a newspaper, magazine, or motion picture While these cases have been decided by striking a balance between the rights conferred on the publisher under the First Amendment and the rights which ought to be reserved to the injured individual seeking privacy, the right to privacy is not simply a limitation on the scope of free speech and free press In an article written in 1964, Professor Edward J Bloustein characterizes the right to privacy as a spiritual interest in human dignity Bloustein, *Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser,* 29 N Y U Rev 962 (1964) Bloustein cites the cases of *Melvin* v *Reid,* 112 Cal App 285, 291 (1931), and *Pavesich* v. *New England Life Ins Co* , 112 Ga 190, 50 S E 68 (1905), as illustrating that the right to privacy is a fundamental constitutional right In *Griswold* v *Connecticut,* 381 U S 479, 1678 (1965), the concurring opinion of Justice Goldberg, joined by Chief Justice Warren and Justice Brennan, treats the right of privacy as "so rooted in the traditions and conscience of our people as to be ranked as fundamental " More recently, the California Supreme Court ruled in *City of Carmel-by-the-Sea* v *Young,* Cal Sup Ct Dkt No SF 22728 (March 26, 1970), that privacy is an important constitutional right

Subsection (c) of section 6254 is therefore the point of impact between two strong policies The right of the people of access to information concerning the conduct of the people's business, (see § 6250), and the individual's right to privacy In fact, section 6250 itself notes that the Legislature is "mindful" of the right As a general rule, such policy collisions are resolved by striking a balance between them in the manner that many cases involving privacy and free press have done

One method of striking a balance may be suggested by Brandeis and Warren in the seminal article referred to above They state, "The right to privacy does not prohibit any publication of matter which is of public or general interest " This principle has led to the rule that people who become "newsworthy", either through their own volition or through matters entirely beyond their control, lose their right to prevent the publication of information which is relevant to the circumstances of their notoriety See Prosser *op cit supra* and cases cited therein Specifically, one who seeks, is suggested for, or occupies, a public or quasi-public position, may find that matters connected with his fitness for public office are deemed to be the subject of legitimate interest to his fellow citizens See Warren and Brandeis, *op cit supra,* at pp 215–16

Inasmuch as a bar pilot is entrusted with great responsibilities for the safety of lives and property it is fair to say that a pilot is "a person who . [adopts] a profession or calling which gives the public a legitimate interest in his doings, affairs, or character ." In *Cohen* v *Marx,* 94 Cal App 2d 704, 705 (1949), it was stated that such a person "thereby relinquishes a part of his right of privacy "[8]

That a public interest can be found in the official activities of relativity low level employees may be inferred from *Stryker* v *Republic Pictures Corp* , 108 Cal App 2d 191 (1951), which held that a sergeant

[8] See also note 6, *supra,* citing cases holding that pilots are public officers.

in the United States Marine Corps had no right to privacy as far as his military service was concerned. (However, see *Continental Optical Co* v *Reed*, 119 Ind App 643, 86 N.E 2d 306, 14 A L.R. 2d 743 (1949), which held that an Army draftee had no right to prevent dissemination of information by the Army, but that he could prevent the use of an Army photograph of himself by a private advertiser.)

Even a public officer or public figure has some right to privacy. In *City of Carmel-by-the-Sea* v *Young*, *supra*, the court determined that a public officer is not required to divulge all of his assets valued in excess of $10,000 without regard to the relevance of the asset to the question of possible conflicts of interest in his public capacity Warren and Brandeis note that "some things all men are entitled to keep from popular curiosity " 4 Harv. L R at 216. And Prosser states "Very probably there is some rough proportion to be looked for, between the importance of the public figure or the man in the news, and of the occasion for the public interest in him, and the nature of the private facts revealed ' See Prosser, *op cit*, *supra* at 849 Moreover, in *Gregory* v. *Chicago*, 394 U S 111 (1969), Justices Black and Douglas, in a concurring opinion, discussed a public officer's right to privacy in the context of the intrusion created by picket lines or demonstrations in front of his home The opinion states that even a public officer is entitled to the "comforts and *privacy* of an unpicketed home " (Emphasis added) In other words, even though the First Amendment grants freedom of speech, press, assembly and petition, it does not necessarily override competing rights of privacy

The " 'unwarranted' invasion of personal privacy" referred to in subsection (c) of section 6254 would occur, therefore, when information was released which bore little or no relevance to the question of fitness for, or performance of, official duties The purpose of the Public Records Act is to allow the public to review the conduct of the "people's business ' In the context of the Board of Pilot Commissioners and the pilot's personnel files, this must mean that the legitimate public interest in the files extends merely to determinations as to whether the Board is properly carrying out its duties of selecting and supervising pilots Information directly related to such an interest is, unless exempted by another provision of section 6254, (or under special circumstances, section 6255, see *infra*) properly available to the public As the information bears more remotely on the question of qualifications or performance, and as it by its personal nature, becomes more likely to be regarded as intrusive or embarrassing by its disclosure, the probability of its confidential nature increases. For example, a public official or licensee probably has no right to expect that his name or business address be kept confidential On the other hand, his wife's name or his home address are probably not matters of legitimate public concern and therefore would be confidential

In striking this balance, it should be borne in mind that slavish reference to tort cases in the invasion of privacy field may be misleading as to the exact procedure of balancing because the interest which competes with the right to privacy in tort cases is of a different order of

magnitude than here.* When a publisher possesses information and wishes to disseminate it, his right to do so is assured by the extremely powerful First Amendment, on the other hand, when a citizen merely seeks information, his right derives from section 6250, a powerful but less than constitutional source

Inasmuch as medical files are mentioned specifically in subsection (c), a special word about them is in order Generally speaking, medical information is especially personal and various cases statutes, and policies reflect governmental solicitude for persons who might be embarrassed by its disclosure In 15 Ops Cal Atty Gen 164 (1950), we cited a survey of the nation's public health departments concerning public access to vital records, to show that there was a definite nationwide policy of sheltering reporting individuals from the possible effects of public disclosure of intimate facts of birth and death

Vehicle Code Section 1808 expressly excepts driver's license records relating to physical or mental condition from disclosure In *Barber* v. *Time, Inc.*, 348 Mo 1199, 159 S W 2d 291, 295 (1942), a right to privacy case involving the publication of an article about the plaintiff's unusual ailment and an accompanying photograph of the plaintiff, the court stated that "Certainly if there is any right to privacy at all, it should include the right to obtain medical treatment for an individual personal condition (at least if it is not contagious or dangerous to others) without personal publicity "

We conclude that while medical information is not expressly made confidential by subsection (c) of section 6254, the unusually intimate nature of such information makes it more likely that disclosure would result in an unwarranted invasion of privacy, unless the information is especially pertinent to a legitimate inquiry into the conduct of the people's business

In summary, section 6254(c) preserves the confidentiality of only a limited portion of the material found in a personnel file For this reason, it is appropriate to segregate the confidential matters from the remainder of such a file However, certain materials found in the personnel files maintained by the Board of Pilot Commissioners are permitted to be kept confidential by the Board of Pilot Commissioners by virtue of other subsections of section 6254 and by virtue of section 6255

Subsection (k) of section 6254 protects from disclosure records which are privileged under the Evidence Code With regard to the application and personnel files of pilots, the official information privilege of section 1040 of the Evidence Code should be considered That section provides

> "(a) As used in this section, 'official information' means information acquired in confidence by a public employee in the course of his duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made

* At lease four recent law review articles have considered the problems of invasion of privacy posed by computerized public record systems and have discussed the problems of fitting present "right to privacy" law to situations likely to arise in an electronic records system See Project, *The Computerization of Government Files What Impact on the Individual?*, 15 U C L A L Rev 1374, 1411 (1968), Note, *Privacy and Efficient Government Proposals for a National Data Center*, 82 Harv L Rev 400 (1968), Miller, *Personal Privacy in the Computer Age. The Challenge of a New Technology in an Information Oriented Society*, 67 Mich L Rev 1089 (1969), Comment, *Interagency Information Sharing A Legal Vacuum*, 9 Santa Clara Lawyer 301 (1969)

"(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing such information, if the privilege is claimed by a person authorized by the public entity to do so and

"(1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state; or

"(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice, but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered"

It should be noted at this point that reference solely to subsection (k) of section 6254 of the Government Code and section 1040 of the Evidence Code would result in a curious circular process, for subsection (k) of section 6254 permits privileged information to be kept confidential, while section 1040 creates a privilege for information which is already confidential.

Fortunately, section 6255 embodies the common law rule set forth in *Runyon* v *Board of Prison Terms and Paroles*, 26 Cal. App 2d 183 (1938), and *City and County of San Francisco* v *Superior Court*, 38 Cal 2d 156 (1951), which states that an agency may withhold information by demonstrating that the public interest in preserving confidentialty *clearly outweighs* the public interest in the general policy of disclosure. Comparison of the language of section 6255 with that of Evidence Code section 1040 reveals that the legislative aim of the second paragraph of section 1040 was the furtherance of the policy enunciated by the above cases [10]

The two cases cited above, though one deals with unsolicited communications concerning the fitness of prospective parolees and the other with a survey of private employers regarding wage scales, have this in common: the information in controversy was sought to be protected by the agency on the ground that it could not obtain such information from private citizens without the understanding, implicit or explicit, that it would be kept confidential The need of a governmental agency to preserve its informational input channels has been recognized by the courts and the Legislature in this State as vital to the efficient operation of government.

In our present era of widespread desire for noninvolvement, it becomes even more important to be able to assure a member of the general public that information given by him in private to a member of the agency will not necessarily be made a public record The "necessity for preserving confidentiality" referred to in section 1040 of the Evidence Code, therefore includes the public interest in encouraging communication of complaints and cooperation with investigations by public agencies Thus, those protions of a pilot's application and

[10] We do not imply that the application of section 6255 is limited solely to the situations discussed here

personnel files which consist of letters of recommendation or complaints lodged against the pilot are to be preserved as confidential not for the protection of the pilot's right of privacy, but for the protection of the State's interest in receiving full and candid reports of this sort from members of the public

The official information privilege is the agency's and not that of the source of information. If the agency decides to waive the privilege, it may do so. Any disclosure to any person outside of the agency constitutes a permanent waiver and the information thus disclosed falls permanently outside of the privilege See *Markwell* v. *Sykes,* 173 Cal App. 2d 642 (1959).

The second class of files on which information is requested are the pilot's accident files. These files consist of the reports required by section 227 of Title 7 of the California Administrative Code [1], any other investigative reports of an accident in which a pilot is involved, and a notation of the Board's disposition of the case The report required by section 227 is unusual in that it is supposed to be the pilot's full report of his version of the event.

If such a report were available to the public, its potential as an admission or as an instrument in discovery proceedings would undoubtedly tend to limit the candor of the report Therefore, the same considerations apply to this report as apply to complaints and other information received from members of the general public, that is, valuable data would probably never be received if such reports were routinely made public after receipt Similarly, information received from the public in the course of an accident investigation is governed by the same considerations

Further, subsection (f) of section 6254 provides protection for "investigatory files compiled by any . . agency for . . licensing purposes" It is not necessary to hire an investigator to compile an investigatory file An investigatory file exists whenever information is collected actively or passively for the purpose of determining whether or not a license should be granted or renewed, or for the purpose of determining whether or not disciplinary proceedings should be initiated Both the pilot's application file and the accident file, are investigatory files compiled for licensing purposes However, merely placing information in such files does not make it confidential As is always the case in construing the breadth of the exceptions enumerated in section 6254, one should bear in mind the policy of disclosure enunciated in section 6250

With this policy in mind, it is clear that the protection extended by subsection (f) should cover only the types of information for which sound reasons of public policy dictate a need for confidentiality Some of these sound reasons are

[1] Section 227 of Title 7 of the California Administrative Code reads as follows
"If a vessel in charge of a Pilot shall sustain injury by going ashore, or by collision or otherwise, the Pilot in charge of the ship at the time of accident shall render a full report thereof in writing to the Board of Pilot Commissioners within 24 hours thereafter If a vessel in charge of a Pilot shall be involved in any stranding, collision, striking of the bottom, striking of any aid to navigation, or striking of any fixed object, the Pilot in charge of the ship at the time thereof shall render a full report thereof in writing to the Board of Pilot Commissioners within a reasonable time thereafter The Pilot shall be entitled to a hearing before the Board of Pilot Commissioners before he is deemed guilty of misconduct or suspended from duty, or otherwise penalized, except as provided in Section 1190 of the Harbors and Navigation Code."

1) The right to privacy of the person who is the subject of the file,
2) Protection of the agency's sources of information; and
3) Protection of the reputation of an innocent licensee when a complaint is investigated and found to be unfounded

While this is not an exhaustive list of reasons for protecting investigatory materials, it is indicative of the types of materials which may be withheld from public inspection by resort to subsection (f) of section 6254

With regard to the third classification of records contained in the opinion request, that is, all other office files, it should be obvious that no categorical answer is possible However, if such files contain information specifically within the restricted exceptions of sections 6254 and 6255, such material may be withheld from public inspection In all other instances, all information found in the records of the Board of Pilot Commissioners must be made available to the public

Finally we may turn to the question of reasonable regulations limiting the public's right to inspect Section 6253 provides that every agency may adopt regulations stating the procedures to be followed when making its records available In *Bruce* v *Gregory*, 65 Cal 2d 666, 676 (1967), the California Supreme Court stated that a custodian of public records should be permitted "to formulate regulations necessary to protect the safety of the records against theft, mutilation or accidental damage, to prevent inspection from interfering with the orderly function of his office and its employees, and generally to avoid chaos in the record archives" It is unquestionably a reasonable requirement that persons wishing to inspect the records of the Board, may do so only in the presence of an employee of the Board However, this requirement should not be used to harass or unduly restrict the activities of a member of the public wishing to inspect the records of the Board The *Bruce* case went on to provide that a custodian should restrict inspection only when strictly necessary to prevent direct interference with the operations of his office As the legislative intent in enacting the California Public Records Act was to open records to the public, we feel that their availability should not be restricted more than may be required by personnel or office space limitations Due to the small size of the Board of Pilot Commissioners and its staff, it would be virtually impossible to comply literally with the statutory directive Because of the Board's very real interest in protecting its records from theft or alteration, it is quite reasonable and proper to restrict inspection by requiring the presence of a commissioner or a Board employee during inspections To the extent that an employee may not always be available during regular office hours, the Board may limit the time for public inspection of its records

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